

**CLARK COUNTY PLANNING COMMISSION  
MINUTES OF PUBLIC HEARING  
THURSDAY, MARCH 16, 2006**

Public Services Building  
BOCC Hearing Room  
1300 Franklin, 6<sup>th</sup> Floor  
Vancouver, WA

6:30 p.m.

**CALL TO ORDER**

The public hearing of the Clark County Planning Commission was called to order at 6:30 p.m. by Chair, Jeff Wriston. The hearing was held at the Public Services Building, BOCC Hearing Room, 1300 Franklin Street, 6<sup>th</sup> Floor, Vancouver, Washington.

**ROLL CALL**

Planning Commission Present: Jeff Wriston, Chair; Dick Deleissegues, Vice Chair; Ron Barca, Milada Allen, George Vartanian, Lonnie Moss, and Jada Rupley.

Planning Commission Absent: None.

Staff Present: Rich Lowry, Chief Deputy Prosecuting Attorney; Patrick Lee, Special Projects Manager; Brent Davis, Wetlands Biologist; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

**GENERAL & NEW BUSINESS**

**A. Approval of Agenda for March 16, 2006**

WRISTON: The approval of the agenda for tonight's hearing - what we're basically doing is the continuation of the Clark County's wetland protection ordinance deliberations. We closed the hearing on that and we're doing deliberations and then we got the biannual code amendments so it's a continuation of our hearing from February 16th. And approval of the agenda?

VARTANIAN: Just a quick question. Wasn't there an item on one of the agendas about the

election on the Chair?

WISER: Yes, that's tonight at the end of the hearing unless you want to do that now.

VARTANIAN: I make a motion that we accept the agenda as submitted.

DELEISSEGUES: Second.

## **B. Communications from the Public**

WRISTON: All right. Great. Any communications from the public. This is the time that you come up and communicate with us on something other than is on the agenda tonight, so that would be something other than the wetlands ordinance, which actually the public testimony has been closed, and something other than the biannual code amendments. Any communications? Great. Thank you. All right. Well, then we'll continue on.

MOSS: Jeff --

WRISTON: Yeah.

MOSS: -- you got a hand up.

WRISTON: Oh, I'm sorry.

WASTLER: I just walked in. I thought this was going to be at 6:30.

WRISTON: Okay. Sorry about that. We need your name, address, and it does need to be something that is not with the wetlands or the biannual code.

WASTLER: Okay. My name is Don Wastler.

WRISTON: Okay. Don, could you speak into the microphone, please, and then address and spell your name.

WASTLER: It's Don Wastler. My physical address is 8811 NE 212th Avenue. And my concern extends farther than the wetlands issue. The wetlands, in fact I sent you guys an E-mail, you should have got it, the wetlands is just part of the picture. The whole system as I explained the last time when I was here is that the, the timber and the forest and the mountains, when that gets logged off there's nothing up there to hold the water back and then it flushes down through the streams, and when that happens the streams that used to be regulated with the regular water flow year-round in the summertime it goes down to practically nothing, and in the wintertime the regulation of the water is not like it's supposed to be because there's nothing up in the mountains to hold the water back and that's actually caused our wetlands to get larger than they would be

normally. And if you do something about the wetlands issue it's a step in the right direction, but it's just a piece of the puzzle that I'm just asking for you guys to do something before -- take care of what we got left.

WRISTON: Okay. Thank you, Don, appreciate it. Any questions? Thank you. Any other communications? All right. Returning to the Planning Commission.

## **PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**

### **A. AMEND CLARK COUNTY'S WETLAND PROTECTION ORDINANCE, CONTINUED FROM PC HEARING OF 2/16/06 – DELIBERATIONS ONLY:**

The Growth Management Act (GMA) requires that jurisdictions periodically review and update their critical areas ordinances. Wetlands are one of the GMA-defined critical areas. The county's wetland protection ordinance is in Clark County Code Chapter 40.450.

The county is proposing significant changes to the wetland protection ordinance to incorporate "Best Available Science" including some wetlands protection guidance developed by the Washington State Department of Ecology. This hearing will be to consider these proposed changes.

The ordinance with proposed changes is available on the county's web page at [www.clark.wa.gov](http://www.clark.wa.gov); in the alphabetical index click on Long Range Planning/Projects of Interest/Critical Areas Ordinances Update (under the active projects heading) and scroll down to the wetlands ordinance (information on the habitat ordinance appears first). Copies of the draft are also available at Clark County Community Development, Attention: **Patrick Lee, 1300 Franklin Street, 3<sup>rd</sup> Floor, Vancouver, Washington, or by contacting Patrick Lee at (360) 397-2375, ext. 4070. E-mail: [patrick.lee@clark.wa.gov](mailto:patrick.lee@clark.wa.gov).**

WRISTON: We are back to deliberations on the wetlands ordinance from the hearing on the 16th of February. At this point I think I'll just return it to the Planning Commission. Any questions of staff? Ron, any questions from your standpoint? You had to leave early that night.

BARCA: No. I went through the supplemental and I'm I think as up on it as I'm going to be. I don't think the staff questions, excuse me, are new, everything that I have is either in the supplemental report or was part of the minutes.

WRISTON: Okay. Thank you. Any other questions of staff?

DELEISSEGUES: Yeah, I do, I have some.

WRISTON: Dick.

DELEISSEGUES: So, Pat, I guess the March 16th Draft Number 13 is the latest?

LEE: That is the latest, yes.

DELEISSEGUES: Okay, I had some questions on it.

LEE: Okay.

DELEISSEGUES: In a Category IV wetlands where it says they have the lowest level of functions and a score of less than 30, the question I had about that, a Category IV is kind of a difficult category to identify, I can't find any place in the book where you get a score in anything that I've read here, maybe it's someplace else, but what if it goes down to zero, I mean it would be, it wouldn't be a wetlands then, would it, I mean that's less than 30?

LEE: Brent is probably in a better position to answer this. Basically the scores are arrived from the rating sheet when the biologists go out and try and assess the functions that the wetlands are performing.

DELEISSEGUES: We don't have a rating sheet in any of the information that we were given; right?

LEE: It wasn't part of the formal transmittal packages. I think a couple of individuals have asked for copies of the rating form, but it was not a part of the formal transmittal.

DELEISSEGUES: Well, okay, that was just one question I had. And then another question is on Page 8 of Draft 13 it has a lot of see Table 2, see Table 2, and I don't know where Table 2 is.

LEE: It's the one at the top of page Table 40.450.030-2 and the one in the middle is 030-3 and then 030-4 the one down at the bottom, so it's referring to the one at the top.

DELEISSEGUES: What page is that?

LEE: 9.

VARTANIAN: Page 9.

DELEISSEGUES: Oh, it's that. In other words it's the same table that we're looking at here?

LEE: Right. The Table 4 is specifically addressing the habitat functions only and if the habitat functions are 19 or less, then you just basically default back to what the water quality function is in terms of the buffer requirements.

DELEISSEGUES: Well, it's just kind of confusing because it says see Table 2 and that is Table 2 and what part of Table 2 then are we looking for?

LEE: Okay. So if you go to Table 40.450.030-3, you see habitat score in the rating form 19 points or less for low intensity use see Table 2, so the table immediately above that for a Category I, a low intensity use, would require a 50-foot buffer, a moderate intensity use would require a 75-foot buffer and a high intensity use would require a 100-foot buffer. That's how the two relate to each other.

DELEISSEGUES: Okay, I just thought in reading this, all these drafts including 13, that this is a very complex ordinance. I don't think a person could pick this thing up and read it and understand at all where they are going to fall into which category or whether their wetlands are going to be classified one way or the other. And I know something like this is difficult to write, but it sure -- to me it's incomprehensible for people to look at this thing and determine where they're going to end up without hiring an expert in a lot of cases, you know, that seems to be the prescription first of all is to go out and find somebody that's knowledgeable in this subject area and get them to go to work for you, but it's just a comment. I really had a tough time with it. I tried to read the thing through and if I were a landowner and I was concerned about whether or not I had wetlands on my property and if so what category they would be in and what mitigation buffers and so forth, I found it very difficult to do.

LEE: And I don't disagree, it is a very difficult ordinance in that sense. What I would suggest if someone, a property owner, was asking for some guidance, I would suggest looking at the option of having them contact Brent to do a preliminary delineation which could then be taken into where the development approvals are required and be respected through the process.

DELEISSEGUES: Okay, I don't have any other comments.

BARCA: I'd like to clarify something with you, Dick, in that regard then. Are you anticipating that new wetlands will be designated as a result of the change? Since we already had wetlands designation with a different style of categorization are you anticipating that there's going to be additional wetlands that would be discovered or on a person's property that they would now have to worry about their existing delineation changing?

DELEISSEGUES: Well, I think Category I and II are pretty much the same as they probably were before, but I think Category III and especially IV you can't tell. I mean I don't think anybody but an expert that goes out and looks for the hydric soils and does the survey and in this county where so much of the land is, you know, 50 feet, 100 feet above sea level, 500 feet is pretty high, we live up on the ridge and we're at 500 feet, there's an awful lot of lowlands that collect water at least four or five months out of the year and whether or not those are wetlands I would think that somebody's going to have to go out and make a determination on that. So quite possibly there could be more wetlands in those lower categories III and IV than people were aware of at least prior to this ordinance. I mean I could be wrong but that's I suspect that you can't tell until you go out and look.

BARCA: Go ahead, Lonnie, I'm interested in this.

MOSS: The fact is, and I think Brent will agree with this, we really don't have a comprehensive mapping of existing wetlands in this county at present. There have been some efforts made to do that, but there are many wetlands out there that only become apparent when some kind of a development activity is proposed and when Brent may be called upon to come out and do a preliminary determination as to whether there are in fact wetlands on the property, so right now the landowner really doesn't know for sure whether they have wetlands unless they're of a high enough category or have presence of enough hydrophytic vegetation or water or something that it's obvious to many people. So I think my concern is much the same as Dick's and I think we have kind of a -- I have kind of mixed emotions about this and that's that I think the old system was much simpler particularly with regard to the wetland buffer dimensions, the problem was that it really didn't take into account the quality of the wetland and the quality of the associated buffer and so to some degree this is much better.

The problem that I see with it, though, is that it really is going to take an expert to determine whether in fact you have a wetland, what the functions and values of that wetland are and what the associated buffers are with it and it's going to be a much more I guess technical decision than it was heretofore. Is that incorrect, Brent?

DAVIS: Well, the determining what is and isn't a wetland isn't changing, we are using the same delineation manual to determine what is and isn't a wetland. What's changing is how we classify those wetlands for protection purposes and in that respect I think Lonnie's got a pretty good read on the complexity of this ordinance.

BARCA: Okay. So that was kind of my take on it based on going through the reading and seeing where we're at. It was still a matter of there was going to be some delineation, now perhaps the classification which would then extend out to say that the buffers could be changed from the old method to the new method, but the discovery process remained primarily the same in that there was distinct criteria for saying where and when there was wetland present. And as I heard you say, Brent, and what I kind of picked up from the minutes before in the reading, that part hasn't changed, it's the classification aspect that we're changing with this?

DAVIS: That's correct.

BARCA: Okay.

MOSS: Classification and the buffer width.

BARCA: Right.

DAVIS: Right.

DELEISSEGUES: On the plus side, though, it seems like this gives you more flexibility than the old ordinance.

DAVIS: That's basically the trade-off. With a simpler ordinance we're looking at something that's much more prescriptive and everyone being stuck with larger buffers.

WRISTON: Further questions?

VARTANIAN: Can I?

WRISTON: Yeah, absolutely, George.

VARTANIAN: I probably ought to know this but do we hold people responsible? What happens to a property owner that does something to his land and doesn't know there's a wetland there? Is part of the process of doing whatever people do with their properties the discovery of determination if there is in fact a wetland there? Because, I mean, I could probably go look through my backyard if I had one and a Category IV wetland is pretty much indistinguishable from no wetland at all except for to be digging down to find out whatever's underneath it and decide to put a swing set or dig up something, what happens in a situation where enforcement I guess is the question, what happens when somebody does something in his yard to a wetland that he didn't even know he had?

DAVIS: Well, our code enforcement process is complaint driven so we only find out about those things if somebody calls and reports it. And, you know, we try to work cooperatively with landowners before we get to the more punitive measures that are in our code enforcement ordinance and, you know, ultimately in most cases people end up needing to come in and get the necessary permits to either restore or keep and mitigate, you know, what they've done. In very minor cases we sort of deal with it informally and just approve a restoration plan and have them take care of it.

VARTANIAN: Okay. I wasn't looking for how we penalize anybody, I just didn't know if somebody makes an honest to God mistake and, oops, didn't know there was a wetland involved there. Okay.

WRISTON: I will say, because it was a discussion I had today, that there are penalty provisions, fines and provisions for moratorium on the property as well; correct? I mean are there provisions for if you, and I guess it depends on intent, but I mean could you get some kind of a development moratorium or something like that on the property? Rich may have to answer that, I don't know. I don't know if that's true.

LEE: There is a provision on Page 28 of the ordinance under the enforcement that says that applications for County land use permits on sites that have been cited or issued an administrative notice and order under Title 30 through this code, which is the enforcement section, have been or have otherwise been documented by the responsible official for activities in violation of this chapter shall not be processed for a period of six years. So there is those sorts of penalties that are encompassed in provisions of the ordinance.

VARTANIAN: Can I ask one more question?

WRISTON: Absolutely. Go ahead. Feel free.

VARTANIAN: And again bear with me, how does this code relate to whatever State or Federal provisions? I mean are those ordinances written loosely enough so that the County has to supply something to work with or do we have to follow along with whatever the State says or the Federal government?

LEE: I guess that's the process that we're going through now. Certainly for example the State Department of Ecology in some of their comments gave us here is the accepted definition of wetland and asked us to use that instead of, you know, what we had in that, in the code, and also the rating system is basically derived from what the Department of Ecology has recommended in their guidance manuals as being consistent with best available science based on the research that they have done. You know, we've taken one approach where you have sort of a, you know, depending on the rating that comes out you have sort of a stairstep of what the buffers might be on the various ratings and that is sort of one of three options that are allowed in the guidance manuals or a derivation of that.

And we as Brent indicated we use the recognized Wetland Delineation Manual that has been approved by Ecology. I mean we use that now and have been using it. So there is a lot of here that is very consistent with what the State guidance has been. There are particularly some of those areas where they're trying to provide a little bit more flexibility some unique local adaptations of some of those and we felt that that was, that was an improvement as staff and your challenge is to determine whether or not you agree with that, you know, wish to develop some additional alternative provisions, but then we also have to make findings that we have considered best available science and if we do not consider best available science, on what grounds are we making the alternative recommendation.

VARTANIAN: Okay. My concern is that or was that to the extent that State environmental people have said this is what we should do or have given an opinion are we in let's say not conflict or in disagreement with them and if so, what happens later when something comes up that the State and the County are in conflict --

WRISTON: Rich.

VARTANIAN: -- if ever?

LOWRY: Rich Lowry, County Prosecutor's Office. Under the Growth Management Act it's the obligation of the County to adopt critical land ordinances including the wetland ordinance. The State agencies are authorized to provide guidance and that's I think what Pat was talking about. If we are in conflict with the advice given by a State agency, then that becomes an issue if it is -- if our ordinance is appealed through the Growth Management Hearings Board. If it's appealed



through the Growth Management Hearings Board, the cases suggest that the Hearings Board tend to believe that the State resource agency, Ecology, Fish and Wildlife, have best available science and sort of put the burden on local government to explain why we're varying from that and in generally it's very difficult to vary from State standards on the basis that we found better science. They've done very credible work in developing what the scientific literature says and have more resources clearly than we do in order to determine that.

If you go through the staff report for this hearing where staff has attempted to identify the issues that have been raised in your hearing process most of the cases where we're varying from what is being recommended by Ecology staff is justifying not on the basis of best available science but on the basis of administrative efficiency, administrative fairness on a rationale that attempting to do what Ecology says is using a hammer on some pretty minor issues, all of which is allowable under the Growth Management Act. We're required to include best available science, we're not required to base our ordinance solely on best available science and we can also consider administrative efficiency, fairness and other similar, but a record needs to explain why we're varying from it and I think the staff report does a marvelous job of kind of giving you staff's take on what the recommendations from the State agencies have been and to the extent that staff is in disagreement and why they're in disagreement.

VARTANIAN: And again, you know, I think we've talked about this before, the concern, my concern here is that if a property owner does something that's in accordance with County code but not State or vice-a-versa where does that leave the property owner?

LOWRY: Well, the State doesn't generally regulate wetlands unless you're otherwise required to get some sort of State permit that involves wetlands. The big dual jurisdictional issue is between the County and the Feds. The Feds do regulate jurisdictional wetlands, that is that set of wetlands that the Feds have authority under the Clean Water Act which is the subject of ongoing litigation at the Federal level. To the extent that the Feds have jurisdiction then they set the rules, they set the bar below which we can't end up.

VARTANIAN: Okay. So theoretically a property owner would not find themselves somewhere between the County and the Federal government?

LOWRY: No. And it's certainly not unusual for a property owner to have to get both a Federal permit and a County permit.

VARTANIAN: Okay. Thank you. Thank you.

LOWRY: The big difference I would say between the two systems is my understanding is that the Federal system doesn't have regulations dealing with buffers and that's --

VARTANIAN: Okay. Thank you.

WRISTON: Questions of Rich while he's here?

MOSS: Well, I have a question and I'm not sure who would be the appropriate one to ask, but I want to go back to the earlier question about a moratorium, six-year moratorium on the property. How would a prospective developer doing due diligence on a piece of property find -- how would they receive notice of this? Is this something that is filed in a way that it can easily be found?

LOWRY: No.

DELEISSEGUES: That's right.

VARTANIAN: Perfect.

MOSS: And if not can we change that so that it is?

LOWRY: You certainly could. And this is not unique to this ordinance and if we do that, we ought to do it on other ordinances, for example forest practices, where there's a moratorium --

MOSS: A moratorium that's in place, right.

LOWRY: -- if you don't follow the rules.

MOSS: But that's actually recorded, is it not, and would appear in a title search?

LOWRY: I'm not sure.

MOSS: In this case I have some serious concerns that somebody may end up buying a piece of property that may turn out to be undevelopable because of a moratorium like this and I think it's incumbent on the County if this kind of notice is going to be issued that --

LOWRY: What I would emphasize is this ordinance is significant as to that issue to the extent that it changes the rules of the game. The existing ordinance is triggered by permits. If you're coming in for a grading permit, a subdivision or a conditional use, I can't remember what all the triggering permits are, but that's what triggers the ordinance. So if a landowner is out there not intending to develop and does something that affects the wetland, under current ordinance the wetland ordinance simply is generally inapplicable with the exception of high-quality wetlands where there is some regulation for what are called regulatory -- regulatory activities?

DAVIS: Regulated activities.

LOWRY: Regulated activities. This proposal somewhat broadens the applicability of the ordinance so somebody who otherwise isn't in for development could trigger applicability of the ordinance. And then one of the issues that you have before you is a suggestion from Mr. Karpinski I think suggesting that we ought to have an open-ended applicability and then deal with over-regulation through exemptions. So if you do anything that affects a wetland, you're

regulated unless you fall within an exemption, whereas, and that's what came out of the committee, what staff is recommending and part upon my involvement is that the applicability section be limited so that we're not regulating unintended activities where we really didn't want to regulate them but we didn't think about them so we didn't create an exemption, but, and then such -- the distinction between the two approaches is a balance between under-regulation and having activities that ought to be covered and not covered, that's staff approach, or over-regulation where you're getting everything that ought to be covered but you're potentially capturing some other activities that maybe shouldn't be regulated. So it's a -- and frankly from a policy standpoint you can make arguments both ways, my bent is to go with staff's recommendation but it's certainly not on the basis of a conclusion that that's legally required, on that issue I think, you know, it is really a policy decision.

WRISTON: Further questions? Rich, why did we -- remind me again why we abandoned triggering mechanisms, the grading or the subdivision plats and such.

LOWRY: Well, Brent could probably speak to that better than I can. The State, however, my understanding is Ecology believes that best available science suggests that there are activities that can occur that don't require any of the triggering permits that can have a devastating impact on wetlands.

WRISTON: Okay. Thank you for that.

MOSS: Can you give us an example of that or could they? Have they?

DAVIS: Well, I think one example is residential building permits, they can affect wetlands and under our current ordinance they're for Category IV wetlands they're essentially not regulated at all, for higher quality wetlands they're, you know, they're regulated somewhat lightly because we don't require a wetland permit, and, you know, there's other types of development applications that could lead to activities that could affect wetlands. And so we haven't abandoned the triggering application, what we've done is expanded the list to add additional development applications that could warrant a wetland review.

LOWRY: And another example is clearing. Under the current ordinance clearing of a wetland is not regulated and unless you otherwise have triggered the ordinance. Under staff proposal clearing would be regulated if it falls within land disturbing activities which is a defined phrase in the code which requires that you disturb more than a certain area, I can't remember what that area is.

VARTANIAN: 300-square feet or something like that.

LEE: Well, I was -- I didn't catch the question, I was trying to look up in the staff report from the last meeting. If you go to the supplemental staff report dated February 9 and you go to the attachment called Exhibit 5, at least under Number 2, B.2 on Page 1, that's where kind of the list of actions is and we show what has been changed from what came out of the committee and the

committee's recommendation was I would say consistent with what the DOE guidance suggests. So those are some of the differences.

VARTANIAN: I take it none of this if we change the code today to say wetlands, clearing of wetlands, is going to be managed or monitored, it doesn't apply to anything that happened the day before the ordinance was --

LOWRY: No.

VARTANIAN: Okay.

MOSS: How does that affect normal forest practices that are nonconversions?

LOWRY: Nonconversion forest practices are not under the County code, are not subject to County critical area ordinances, and I think there's an exemption here.

LEE: There's also an exemption.

LOWRY: Right.

VARTANIAN: That's an area I sort of had a question about. Is there something that says what standard good forest practices are?

LOWRY: Yeah. This, as to this particular issue, we're pre-empted. If it's a forest practice it's nonconversion and it's outside an urban growth area, then we don't have any jurisdiction to regulate that activity, it's solely regulated under the State Forest Practices Act.

VARTANIAN: Oh, so there is something in code that says these are forest practices, okay. Thank you.

ALLEN: Is that Chapter 76.09 of RCW?

LOWRY: Uh-huh.

ALLEN: Okay. Thank you.

WRISTON: Further questions?

ALLEN: I did have a question. I have not seen any references to Clark Conservation Districts and yet those districts exist, they're here, and they also encourage landowners to protect wetlands and to protect water quality as well as to comply with regulations of jurisdictions including ordinances such as this, they also cooperate with the regulatory agencies at their request of course by offering assistance to land users and landowners who have been found to be in violation of your rules and regulations. When he mentioned that you pretty much would have to

hire a consultant or an attorney to understand this particular ordinance do we have any arrangement with the Clark Conservation District to maybe educate and promote some of the practices, best management practices for certain either agricultural operations or the forest operations or other impacts that may be impacting wetlands and may render them in violation of this particular ordinance or do we even cooperate with those agencies even though they're available there for the stakeholders?

LEE: I think the answer is yes we cooperate with them, although not specifically in regard to the wetlands ordinance per se. For example our water quality program as I understand it actually funds one of the positions that the district that deals with the water quality issues, and also the County supports some of the educational efforts that they try to contact landowners and get them to proceed with.

ALLEN: Do you normally tell land users that says, gee, I can go out there and get a consultant to bring me up to code as far as bringing up the best practices in or do you just let him find out under his own if he does find out?

LEE: Well, certainly we would refer folks -- actually I will say there was -- I mean Gary Bock of the Conservation District was on our working group that helped develop this so they're aware and we do work with them. They don't have a regulatory role but they do certainly have a supportive role in terms of working with landowners to respond to a variety of environmental issues.

ALLEN: And I was primarily asking about the community members that, you know, may or may not know that there are these particular tools available to them.

LEE: Yes. We also say there's been lots of discussion associated with the habitat ordinance about some sort of major educational component to that process.

ALLEN: Perfect. Thank you.

DELEISSEGUES: Pat, is there an inventory in Clark County on lands that are in perpetuity for wetlands like wildlife refuge, anything that the conservation agencies that have bought, purchased for wetlands, is there inventory of those and the number of acres that are in the county?

LEE: We certainly have the ownership of these and for example if there are some conservation covenants that have been recorded, they're available. I don't know that we've actually gone through and tried to break down the amount of acres of -- well, I would imagine it would be a pretty high percentage but the acres of the Ridgefield National Wildlife Refuge it's a wetland.

DELEISSEGUES: Yeah, I would think so. I just wondered how much of the county is already protected in perpetuity with the Nature Conservancy and so forth that purchased land for that particular purpose?

LEE: I don't, I don't have good figures. I think in the comprehensive plan text chapter regarding

with open space and conservation I believe there's a summary of some of the major ownerships in terms of DNR or U.S. Fish and Wildlife, there's a breakdown of what the County Parks group owns, so there are some acreage figures associated with that in that portion of the comp plan, but I don't recall what the totals are off the top of my head.

DELEISSEGUES: I was just noticing in the Oregonian here they had an article that came out on February the 19th that it said on February the 21st the U.S. Supreme Court would hear arguments about particularly the Corps of Engineers 404 permitting process and the law, the Clean Water Act, PL80-845 says navigable waters. The Corps has amended that to say "and tributary thereto" and that's the issue right there that the I guess the Supreme Court is hearing argument on, but it would be interesting to see how that comes out.

And then in the North American Wetlands Conservation Act, in Section 3 it says the first thing to implement it is obtaining of real property interest in lands or waters including water rights for the long-term conservation of such lands and waters is migrating birds and fish and other wildlife dependent thereon, you know, buying the land, and I think that's the issue here too that the defendant in the case, or the proponent I guess I should say says, you know, if the land is that valuable people ought to, "people" being the government, ought to buy the land and put it into wildlife habitat and not prevent people that own the land from using it otherwise.

But it's just a comment.

And I think there's a lot of controversy, we heard it at the public hearing on both sides. I think you've done a pretty good job really in what I can see in the ordinance of providing the flexibility in walking a tight line between what the requirements are from the State until there's something different, if there is something different by the Supreme Court, and trying to protect the people's right to develop their property. I think you've done a good job on that and just wanted to say that as much as I've read on both sides of it, I don't see how you could be in any other position frankly.

LEE: Was that a motion?

WRISTON: No, not yet I don't think.

DELEISSEGUES: Just a comment.

WRISTON: Further questions of staff or Rich?

ALLEN: I have one.

WRISTON: Oh, Milada, go ahead.

ALLEN: I had one question on those conservation covenants that run with the land. You go through the conditioning and sometimes they're on the map, sometimes they're not on the map that is recorded as a final document, and sometimes the covenant itself is not recorded with the final map, and I know that there's at least one particular case here in the county I'm very much

aware of that one, so how does the owner find out that there is a conservation covenant? And if they didn't find it out, then what is the remedy to make sure that there's full disclosure to a future prospective landowner?

LOWRY: That sounds like a question for me. The County ordinance requires that those covenants be recorded and I'm not aware of a case where they haven't been but there certainly could be.

ALLEN: That's the Ashley Heights one.

LOWRY: If it's not recorded then the covenant is not binding upon a subsequent purchaser who didn't have notice of the covenant and it's -- so it's critical that those covenants be recorded. And again, if one is not, then the ability to enforce that covenant is in serious question. Now having said that I would indicate that the covenant particularly for wetlands in large part simply is noticed that there are regulations that otherwise would apply letting you know that here's your wetlands and here's some of the restrictions, so without the conservation covenant those restrictions would still apply. Now the biggest exception to that is for lower quality wetlands where the covenant would place restrictions on what are called regulated activities which are essentially activities other than triggering permits and those regulated activities only are regulated through that covenant for lower quality wetlands. So if the covenant's not recorded and you have a purchaser comes in and clears, which would be a regulated activity, without notice that there's a covenant, then there's in all likelihood no violation if the covenant's not been recorded.

ALLEN: But they would still have to abide by all of the other rules and regulations that are applicable at any other wetland?

LOWRY: Yes. Yes.

WRISTON: George.

ALLEN: Thank you.

VARTANIAN: Probably a mechanical question, how long does a piece of land have to be wet to be considered a wetland and conversely how long can it stay dry before it's declared no longer a wetland?

LEE: You want to run through the technical definition?

DAVIS: Yeah. Well, that's really a tough question. There are three criteria, hydric soils, hydrophytic vegetation and the hydrology. The hydrology you have to meet the criteria one out of two years so it doesn't tell you how long a time, time way know to sample. We make our determinations based on site conditions that we interpret at a single point in time so there is some professional judgment there. The hydric soils take a long time to form, generally on the scale of decades to centuries, and they also take a long time to go away. Even if the hydrology goes

away, we do have a lot of relic hydric soils here in the county, areas that have been drained or have naturally dried up but the soils still have the signatures from the wetlands. The vegetation can come and go on a scale of one or two years up to a decade. A lot of the seeds can stay in the soil and are very opportunistic, the water's there, boom, they sprout and then they can sit there for ten years.

So really this is a tough problem, especially when you've got an area and you know in the past have been wetland and someone's trying to convince you that it no longer is, taking a look at it one snapshot in time is very difficult. You can go out and say, yes, it is dry right now and it should be wet, but it's very difficult when you have vegetation and soils to conclude that it's changed for all time. So it's not really an easy question to answer, but wetlands do come and go.

VARTANIAN: Oh, I realize they come and go, but I just wondered if I'm sitting on a piece of property for ten years and it's been dry all that time, when does it become okay to put in a swimming pool or something? That, maybe it's an academic question that doesn't, that can't be answered, but somewhere along the line I'm sure there's a criteria that says, okay, enough, this is no longer now a wetland, and it may be subjective.

DAVIS: Right. And it varies case-by-case.

VARTANIAN: Okay. Thank you.

WRISTON: Further questions?

BARCA: I have a question concerning the mitigation monitoring. I looked through the minutes and I saw the discussion about that. As I look at Draft 13 I don't see that there's been any change of the position since then, yet part of the testimony was that I believe staff stated there was about a 40 percent compliance with turning in the annual reports for the monitoring and I'm a little concerned about even after staff has exposed that low number that we're not doing anything different in that regard. Can you speak on that matter, please.

LEE: First, in terms of areas where specific wording was suggested, and by people that testified it's Page 21, Comment 22, and that deals with the monitoring period and that was the only specific comment we got. DOE had suggested ten years for certain higher risk mitigation type projects and we feel that we -- the wording here says "but not for a period of less than" so that we have that authority if we want to extend the monitoring period. In terms of the monitoring say on a larger scale of what the success of mitigation has, which is at the specific issue that you're trying to get at?

BARCA: Well, I think the specific issue is is we put in mitigation plans in place and that's the end of it, we have a 40 percent compliance with the annual report and as we've stated repeatedly we genuinely don't have the resources to follow up on that so we don't really know what kind of mitigation is being accomplished in the long-term. I guess my thought process on this is mechanisms put in place to get a higher monitoring compliance over the period of time, I don't



necessarily believe that we have to go beyond the five years unless staff did see the requirement to extend which was appropriately changed on Page 21, but I'm looking at this and saying to myself if this is an important mechanism but we only have a 40 percent compliance to that, then we should recognize that this mechanism is, well, for the lack of better terms being abused or ignored by the people that are using it for their benefit.

DELEISSEGUES: But, Ron, is it the time period or is it the staff or both?

VARTANIAN: Yes.

LEE: It's -- I mean to do monitoring over the long-term to ensure greater compliance it's really a staff resource allocation issue. In terms of some of the contingencies built into the State guidance and that that is in part because of the uncertainty of whether mitigation sites are performing as designed, the mitigation ratios in the current State guidance and which are recommended in Draft 13 are higher than they were in the prior ordinance. So that is one measure that was incorporated based on some of the uncertainty regarding mitigation, whether it's successful or not, but when you're getting to the point of looking at the individual sites and assessing whether they're succeeding, et cetera, that's a staff resource question.

LOWRY: Yeah, I'd suggest that that really isn't an ordinance issue, that's an implementation issue, and given the testimony that you apparently received you certainly can make a recommendation that the Board ought to pay attention to whether or not implementation of the ordinance is being adequately funded in that area.

ALLEN: And I would like to see that because the Department of Ecology did the survey two or three years ago, I can't remember when, and as part of that they found out that the amount of follow-up by permitting agencies has direct impact on the success of that wetland mitigation and if we are seeing such, quote, unquote, low percentage returns on mitigation success maybe it should be monitored a little bit more. If it's a question of staffing and a question of monetary compensation for that, some jurisdictions have had what they call the condition compliance check fee and instead of allowing the developer and/or the landowner to do their own monitoring and compliance and reporting to you, they would basically have somebody else go out there and check it out but be reimbursed for it through those deposits. Is that something that has been considered before or is that something that could be considered now?

LOWRY: It certainly could be considered now.

LEE: It's nothing that we've discussed but, yes, I mean just internally we in looking at the -- beginning to look at the budget for the next biennium we will be addressing some of these issues, but certainly I think as Rich has indicated, if you feel that is some recommendation that you want to move on to the Board, it would be appropriate to do that.

WRISTON: Further questions?

BARCA: Yeah, I have some additional items that I'd like to go over. I also looked through the testimony concerning the aspect of siting stormwater facilities in the lower functioning wetlands, I saw the Department of Ecology recommendation to not site those in that fashion and then the reply in Draft 13, I am looking at Page 14, Line 19, I have seen information where stormwater facilities have been integrated into a lower functioning wetlands to effectively start the retrieval and return of the water back into wetland systems using the wetland systems themselves as further filtering mechanisms by able to do that appropriately I've seen the studies where they've actually been able to shrink the size of the design and engineered facility but having to do some enhancement to the wetlands themselves and I am noticing that we really don't have much in the way of work in our ordinance here about trying to use the stormwater facilities to our advantage rather than just the allowance.

I mean the way it is right now we are giving more credibility or should I say credit to the aspect of being able to site a parking lot in a wetlands area than we are in the stormwater facility. I think the way I'm reading it right now we have exceptions that allow 40 parking spaces in the wetlands but we're going to have a prohibition against the stormwater facility itself to the same degree at the functioning level of the wetlands. So that being said, I realize with this draft we're not going to go ahead and change the wording on that, but I would really like to see staff look at the aspect that we might have a potential bonus in the way that we're doing stormwater facilities and the enhancement with the wetlands adjacent to each other rather than look at the aspect that this is a necessary evil to try and site one anywhere close to it at all.

LEE: I don't disagree. I think the State guidance certainly looks at things in a negative way for the most part. There are a couple of distinctions that, and, you know, just so you're clear, on Page 14 starting with Line 19 that's dealing with what's allowed in the buffer areas, not the wetlands themselves. And then if you go to Page 19 --

BARCA: 19, Line 39?

LEE: Yeah. -- then that's where you're dealing with what's allowed in the wetlands themselves. And I will say that one of the comments that a member of our working group made during discussions was that and sometimes in an attempt to comply with our stormwater management requirements we actually end up diverting the water from around the wetland and so at least this is an attempt to try and indicate that the wetland, you know, returning some of that water after water quality treatment to the wetland may not be a bad thing and we wanted to make that clear, but there is a distinction between what's allowed in a buffer and what's allowed in the wetland. The buffer you could actually construct in the outer portion some of the water quality facilities as well.

ALLEN: Speaking of the stormwater facilities on that other insert that has a lot of the blue print on it, and I don't know what we're referring to that one as, but where it explains Item Number 20 I personally would have moved the (b)(a)(1) up above because this one specifically says "stormwater facilities shall not be allowed in Category I or II wetlands" so it would be -- so it's right up front right at the beginning and then I would begin then the second one, "stormwater facilities

are only allowed in compliance with the following requirements but only if no other location is feasible" because it doesn't really encourage people to look for another location so I thought, well, you know, we're jumping immediately into a locating in a buffer versus trying to see if there's another location available.

LEE: Could I get a clarification?

ALLEN: Sure.

LEE: Were you talking about Exhibit 3?

ALLEN: Yes, it is Exhibit 3.

LEE: Okay, Exhibit 3. All right.

ALLEN: Page 8, Item Number 20.

LEE: Right. And just to be clear, this is the specific wording changes --

ALLEN: Sure.

LEE: -- that people that testified had suggested. So this is not what staff necessarily is recommending. What staff is recommending is in --

ALLEN: In the ordinance.

LEE: -- in the Exhibit 2, 13, Draft 13.

ALLEN: And yet it sounded like a very good language there too.

WRISTON: Lonnie, not to put you on the spot, but having designed these stormwater facilities do you have any -- I'd be curious whether you have any, if you don't say you don't but --

MOSS: Yeah, I'd like to make a philosophical and then a technical comment and first, you know, it is one of the oft quoted values of wetlands is their ability to --

VARTANIAN: Filter.

MOSS: -- help reduce downstream flooding by storing floodwaters and so it seems like we ought to be predisposed to using them for stormwater facilities wherever possible. The other thing of course is from the technical viewpoint the wetlands are invariably, almost invariably, in the lowest part of the development site and it's very difficult, often very difficult to construct stormwater facilities that are outside of these sites because water runs downhill, you know, so I think we ought to be looking at every opportunity to use the wetlands for that storage function where we

can without degrading the other values of the wetland.

RUPLEY: We're very impressed with your technical comment, Lonnie.

WRISTON: Water runs downhill.

RUPLEY: Water runs downhill.

MOSS: I have that on the best authority.

BARCA: So that's best available science for the record?

MOSS: It is.

VARTANIAN: Can you supply studies that verify that?

WRISTON: Yeah, exactly. All right. Thank you. Any other questions or comments? Ron, do you have more?

BARCA: Yeah. I think in light of that discussion earlier about mitigation I am really concerned about the aspect of off-site mitigation, primarily about the aspect of the use of wetland banking. It's my understanding that we don't have any facilities at this time as legitimate wetland banks; is that true?

DAVIS: That is correct.

BARCA: I do have a concern that wetland banking can become an economic boon when utilized that may still result in the aspect of degrading particular watersheds and I know that we have a priority system here that says that we try and keep it within the same watershed. I guess my biggest concern is sometimes money helps drive decisions that are irreversible once they're put in place and for my part I would prefer to see wetland banking stricken from this ordinance at this time until we really had a means in place that said that the watersheds were going to be protected or target watersheds were going to be enhanced with the banking so we would know ahead of time what we would be trading.

LEE: I would comment that when you go about setting up a wetland bank there is a whole lot of things to address. One of those is what is the service area, if you will, for the use of the wetland bank, what is the banking instrument that you're going to use, how do you value those things, and it's because you have to work through all those issues before getting a bank together that it's been somewhat of an obstacle because it's been a long process. I will say our Public Works Department is actively working to establish a bank at this point in time. We do have private habitat and wetland banking nonprofits that are coming into the county to try and see if we can partner up and get something done. So I think a lot of the concerns that you've mentioned are things that are actually addressed in the process of establishing a bank. But if there is, you know,

your opinion is that it's not appropriate at this point in time, then that is perfectly fine, but there is a growing interest in that area.

BARCA: I believe the interest in it is valid in the aspect of trading on wetland credits is going to become inevitable. My concern is the aspect that the County is not driving which watershed they want to enhance with the banking and which ones they would allow to be degraded as a result of the trading of the credits and I don't see a mechanism in place that's going to allow us to say that we can or cannot allow particular areas to be degraded if they're able to buy the credits for the purpose of being able to develop.

DAVIS: I think one thing to point out is that the wetland banking process is primarily driven by State and Federal regulatory agencies and the County is a very minor player in the decision-making process and it is generally speaking bank service areas are to a great extent intended to be watershed limited; however, one of the things for instance that the part of the County's bank proposal is what's called an umbrella bank where you have a number of sites over a regional area, instead of having one big site you have a number of smaller sites, and the credits are kind of generated in a pool and the service area is defined based on the characteristics of all the sites as opposed to having individual service areas for each of the sites and so limiting ourselves to watershed would work against that process in some cases and, you know, it's I think if we continue to constrain ourselves to watershed, what we're going to see is we're going to see less opportunity for banking to occur in Clark County because the nature of what people are trying to propose to get these things approved is going to result in more of these umbrella type banks which are intended to cover a much wider area and the idea is is that there are banks in the individual watersheds, but the crediting is distributed over the entire group of banks as opposed to each one individually.

BARCA: So without the limitation, though, we could genuinely see the aspect of say Salmon Creek watershed selling continued credits off for banking that resides in the Lewis River watershed or the Washougal watershed or something of that nature where the Salmon Creek watershed would be continually giving up its function for the sake of banking in another location?

DAVIS: Well, under the umbrella scheme part of the analysis is how much banking are we doing in each of those watersheds under this umbrella and, you know, there's some consideration of the balance, but obviously every proposal is going to be unique and the consideration of those proposals are going to be unique and I think -- I mean the concern is is if we're limited solely to watershed then, you know, that umbrella scheme is not going to work and so we're going to -- and we don't have a lot of opportunities for large banking sites and in order to make banking successful you need fairly large sites and so I --

LOWRY: I think Brent's absolutely correct, there's a lot of momentum including momentum from the Board of Commissioners to see some pilot projects get going. It may be more appropriate and more likely to be well received by the Board rather than recommending that we not adopt something at this point to recommend that the issue of banking be for example automatically brought back to the Planning Commission once a year and you get a report in terms of have any

banks been established, how are they functioning, what are the watershed implications, because frankly it seems to me highly unlikely that we're suddenly going to get a flurry of banks that are going to preempt the County's ability to take corrective action if something goes wrong. What we're likely to see is more, again, pilot projects and tracking those over time it may be more appropriate than saying we're not going to -- we're not going to open the door to them until all the answers have been discovered.

BARCA: I'm not --

ALLEN: Being a little bit more proactive wouldn't it be good for the County to identify strategic wetlands in strategic corridors for the strategic system to be preserved in perpetuity through contributions of development of let's say Class IV wetlands somewhere else and purchasing credits to go into this particular bank in order to preserve the strategic wetland versus any wetland out there in the same watershed? I mean it could be still a strategic wetland within that same watershed that the person's developing, but now you are strategically locating the best wetlands to save in perpetuity.

LEE: At least the discussions at the staff level I think are consistent with what you are suggesting. You know, we recognize there needs to be sort of an overall plan behind putting these things together. Where can we get guidance from, well, we did complete -- our Public Works Department completed the wetlands inventory as it was called although it was, you know, it's more a predictive model, but part of that study it identified kind of reference sites for various types of wetlands and also potential mitigation banking sites of those same types. We have the guidance from Lower Columbia Fish Recovery Board in terms of the salmon recovery initiatives that they've spent a lot of time on, all of these would provide guidance in helping us sort of develop the strategic directions in terms of how to go about alternative mitigation such as a wetland bank.

ALLEN: So in that case maybe we should not strike out the language about wetland banking but leave that opportunity there for but just say that there should be some guidance and rules set up to guide these particular banks.

LEE: I would. I mean from staff's perspective that would be a preferred course of action.

ALLEN: Thank you.

MOSS: It's true that we don't have any wetland banks in the county at present, but we have had at least one that I'm familiar with in the past, the one at Meadow Glade and I've always thought that that was fairly successful. Brent, from a technical viewpoint is that correct or --

DAVIS: Yeah, that definitely was a successful effort. It's, however, in terms of what's being considered for State and Federal approval, which really is what makes banking worthwhile, it wouldn't have passed muster because it's just not a big enough site.

MOSS: Yeah. A couple of comments I'd like to make and one is that there's been considerable discussion about the failure of many mitigation sites that are constructed I think on a more project-specific basis and it seems to me that we're better off with some of these with creating banks in this way that would be run by professionals and maintained by professionals as the one at Meadow Glade was than we are having on-site mitigation or off-site mitigation that basically is maintained by individuals who aren't that skilled in doing so. The other thing is that I know many of the uses that projects in which I was involved that utilized the wetland bank out there at Meadow Glade were had relatively small impacts and the mitigation for something like that is often pretty difficult to do on-site and it seems that the effort would be much better spent in compiling all the aggregate of that mitigation in some banks someplace where it's going to be a successful effort.

BARCA: And I'm not opposed to the aspect of creating the banking, I guess where I have my problem in it is the aspect of the relationship of the watersheds that we're going to be impacting versus where we're going to be doing the banking from the standpoint of this should be public acknowledgment. If we're going to just say that certain watersheds are too expensive to try and maintain or if we're unwilling to utilize mitigation dollars in the form of buying conservation rights to enhance or maintain wetlands, then let's just declare which watersheds we're not going to be protecting and trying to put an effort into and then say which ones that we are in that regard so the public has a clear understanding. I see this -- right now is this will be a continual patchwork where we're going to be chasing the functions of a variety of watersheds and going from one watershed to another one, as one degrades then we'll put emphasis on it at the expense of a different watershed.

Banking is a great tool for the aspect of development. It's not necessarily a great tool for the aspect of enhancement or preservation of particular watersheds because you are buying credits for the sake of moving that enhancement to different locations. If the trading of that function is going to be turned into a commodity, then the public should know which ones we're selling and which ones we're saving. I would much prefer the aspect of using mitigation dollars for the aspect of buying conservation easements which kind of plays towards what Dick was saying, if it's so dang important why don't we go ahead and buy it and you would be able to then take particular watersheds and hold them in perpetuity that way. Perhaps it's nonprofits that are developing the banking, but I see the economic engine driving why this tool is so important to get on board right now, I don't necessarily see the preservation of watersheds as the primary driver for it.

MOSS: Well, just a comment here. Brent, correct me if I'm wrong, but much of this as you said is driven by the Corps, mitigation can't simply consist of preservation of an existing wetland, can it, and meet the Corps' requirements?

DAVIS: Only in very rare circumstances.

BARCA: That's why I said preservation and enhancement. But we could buy specific wetlands for specific watersheds, preserve and enhance through conservation credits or the aspect of conservation easements where the private property owners would continue to own them but the

public would go in and have the development rights for that and then go ahead and be able to enhance them as higher functioning wetlands.

ALLEN: Where would the funding source come from for buying those lands? Would it be from the State or --

BARCA: It's the same funding source when somebody has to go buy a wetland credit at a bank.

ALLEN: Now these banks are certified by the Department of Ecology; is that correct? They have to be certified by the Department of Ecology or it would have to be certified by a State agency?

DAVIS: If they're going to be used for State and Federal permits.

ALLEN: Only for those?

DAVIS: Correct.

MOSS: It seems like we have a difficult funding mechanism here at best though. I mean I don't see that it's going to be possible for individual developers to throw money at a fund which would be banked until such time as a wetland could be purchased and enhanced, you know, the mitigation has to happen at the time that the project happens. I don't think that there's any mechanism at least under State and Federal law that allows you to simply put money in a pot waiting for some day to accumulate enough of that money to purchase and enhance something. So unless, you know, unless some agency or some entity is going to front all of the money for this, it doesn't seem like it's really very workable.

LEE: I mean I think you're right, usually either a public agency and in partnership perhaps with private nonprofits are the more traditional means of sort of acquiring the land. I will point out that the ordinance in addition to the mitigation banking issue also under our alternative mitigation does discuss the possibility of something called a cumulative effects fund which gets more to the type of potential tool that you were just talking about where there perhaps for, you know, very small mitigation requirements some fund be placed in a pot that then could be funneled into some of these overall restoration efforts.

MOSS: That unless I'm wrong I would see that working on the small wetland encroachments that are only governed by the County wetland ordinance.

LEE: Very likely.

MOSS: So less than a tenth of an acre probably.

LEE: I think that would be --

DAVIS: Or isolated wetlands.



LEE: I think those would be, those would be the more typical uses, yes.

ALLEN: And then of course they would have to have a monitoring system set up for that so there's no double dipping out. I mean the same piece of land being utilized twice or three times.

LEE: Yes. One is, I think both ultimately, their success depends on setting up a larger mitigation system with the land, the long-term maintenance and monitoring requirements, et cetera, et cetera, but both are in the current draft of the ordinance and actually have been in the drafts of the ordinance since the working group as opportunities that I consider them since they're not fully flushed out, but the ordinance provides us an enabling opportunity at this point to try and move forward on some of these things.

LOWRY: One of the troubling aspects to me about the cumulative impact fund is that under State law if we exact a contribution by developer, and it can be a voluntary contribution, we got to spend the money within five years. With the wetland banking system Lonnie's correct that the mitigation has to occur in conjunction with the development so you're going to spend the money and you also have a presumably enough money being changing hands so that a project can occur, some sort of mitigation project. With the cumulative reserve fund you're talking about pennies on the dollar, you're talking about very small contributions from very small projects affecting small or isolated wetlands and it may be very problematic that we end up with sufficient dollars to make a project worthwhile. And I mean this is a concept that makes sense, in the abstract it is very popular at both the Federal and the State level because they're convinced that major damage is being done by small bites, that cumulative impacts are something that need to be addressed, whether it's practical to do so by collecting dimes and trying to do a \$100 project it really remains to be seen.

VARTANIAN: Is it outside the realm of possibility, and I'm probably going to get lynched for saying this, but for the community, the County, whatever authority, through a bonding issue, through some sort of a financing issue, require the bank to be then paid off by subsequent uses or mitigations that are being offered?

LOWRY: Actually if you have a bank, then that, the cumulative reserve fund, problem goes away because the most likely place they'd invest it is in the bank and the bank --

VARTANIAN: Yeah, but you have to acquire the bank.

LOWRY: But if you don't have a bank and you're -- one of the other requirements of the State and Constitutional law is that if you collect these cumulative reserve funds you have to spend them in a way that tends to mitigate the impact, cumulative impact, which means really that you're going to spend them -- you're going to have to spend them in the same watershed and whether you -- if you don't have a bank in that watershed and you don't have a County project in that watershed that you could use this money to do it, it could be very problematic that we're going to be able to spend the money in the five years.

VARTANIAN: I'm not sure if you answered my question there. I guess what I'm getting at is could not the County or some conservation fund acquire a bank in a particular watershed, mortgage it, finance it somehow, and then pay off the financing through a vehicle of then allocating the funds according to the square acreage of --

LOWRY: If there are sufficient funds, but if you're in an area that -- if you're in a rural area that sees relatively little development or you're in an urban area whose watershed has already been largely developed, there may not be a flow of funds that would justify it.

VARTANIAN: Okay. Well, theoretically, then, if there's not a flow of funds to justify would you then still have the consumption of the water land, wetlands concerned?

LEE: I would say, if I can interrupt, Mr. Lowry, in the wetlands ordinance there still is the avoidance standard where your first option regardless of whether you have an alternative mitigation banking option or a cumulative option, whatever, cumulative effects fund, first you're obligated to try and avoid, then minimize, so that standard is still in place, that doesn't go away.

VARTANIAN: Okay. No, I understood that. I was just thinking if we need a bank so bad and if there's enough activity that would theoretically, if we just have the timing issue between the financing and the utilization --

LOWRY: Right. Let me give you a specific example. Suppose you're in an urban area that's already largely developed, you've got some parcels that haven't been developed because they're dominated by wetlands, under the reasonable use section of the ordinance they're entitled to develop but they have to mitigate, the way they mitigate is contribute to this cumulative effects fund and we have say 1,000 bucks in that fund or 10,000 bucks, is that going to be enough to do a project.

WRISTON: Further questions?

BARCA: Not from me.

WRISTON: How is everyone doing? Do you want to take a break before we come back and deliberate and hopefully get a motion or do you want to just keep going?

DELEISSEGUES: Why don't we go for a motion if nobody's got any more comments.

WRISTON: Well, I think we were at questions but --

ALLEN: I do have one more comment. And when I looked at the Exhibit 3 and I saw on Page 1 under Item 1 I saw Number 2 "achieve no net loss of wetland functions and values" I go, oh, yes, good and then I looked at the Draft Number Exhibit No. 2 and it's not there. Dealing with the community stakeholders that do not understand legalese or plannerese or any of those other

higher skilled languages, I would like to see that -- as a consumer personally and also as a community outreach person I would like to see that up front stating that this is our purpose, this is our goal. And I know that this is the State's goal as well, but I think somebody's not going to read through the entire ordinance to find out that this is the purpose to begin with. So that's why I was a little bit disappointed not to see Item Number 2 on Exhibit 3 or the version of Draft Number 13. Is there one --

LEE: If we go to --

ALLEN: If you go to --

LEE: -- Draft 13 --

ALLEN: Exhibit 2.

LEE: -- Exhibit 2, Number 1, is that what you're talking about?

ALLEN: Page 1, purpose.

LEE: Right.

ALLEN: We have 1 is "include best available science" and then we go to 2 "encourage restoration" but it skips over the original language that several stakeholders have brought up at the last meeting, and then personally looking at it from the perspective of a community person or a community landowner that does not have access to an attorney or does not have access to your expertise at any time, it would be very good to see it right up front under "purpose" that this is one of the goals is to achieve no net loss of wetland functions and values. Most of them probably will not read through the entire ordinance to get that message.

LEE: The one comment I would have on, and maybe Mr. Lowry can comment on any legal context, however, seeing that it's in the purpose statement, if you were to put in that provision I would recommend you do the goal of no net loss of as opposed to just the straight absolute because I'm not sure what the ramifications might be of an absolute statement.

ALLEN: That sounds very good.

BARCA: It would quickly facilitate banking, wouldn't it?

DELEISSEGUES: Well, maybe not.

VARTANIAN: Well, it kind of comes down to the purpose of the ordinance. I mean if we're trying to encourage conservation and wetlands ordinance and wetlands maintenance, you know, language like goal would make some sense. If we're trying to say you are not going to lose any wetlands, then you have to be a little bit more affirmative, which is more reasonable depends on if

you own property or not.

LEE: Well, it also depends on the level of confidence we have and do we understand things well enough to truly protect fully the functions and values.

VARTANIAN: Agreed. Agree.

LOWRY: Yeah. My only concern is is that no net loss is a catch phrase that's used but not in any Federal or State enactment that I'm aware of. It's not in the Growth Management Act, it's not in the Federal Clean Water Act, I don't know what it means.

BARCA: You don't know what it means?

LOWRY: I don't know what it means. I don't know what it means in -- I mean I know what it means in a philosophical sense, I don't know what it means in terms of an ordinance. Does it mean that we shouldn't have any exemptions. The exemptions themselves are saying for administrative efficiency and for fairness and to avoid over-regulation we're going to allow some kinds of activities to go ahead and proceed even though they result in a marginal net loss of wetlands.

DELEISSEGUES: And one example of that is allowing one residential structure on a piece of property even if it's in a wetland so you'd eventually lose wetlands just from that alone.

BARCA: But we also have in our mitigation the aspect of ratios that are enhancing or improving wetlands to a greater degree than the loss.

LOWRY: Right. And again, I don't have a serious problem with putting the language in the ordinance so long as you have it as a goal and not suggest that this ordinance is in fact going to achieve or be construed to assure that we achieve no net loss but to have it as a goal. I mean we're using a catch phrase everybody uses and maybe it is a good PR thing to put it out there up front so people will see it, I just don't know what meaning it has in terms of either construing the ordinance or understanding the ordinance.

ALLEN: Well, if you have a ratio where you're asking them to mitigate by adding more wetland than what they're destroying wouldn't it theoretically result in a bigger bank, therefore the wetlands are there for the no net loss goal would be achievable?

LOWRY: Well, except that the only legal justification for requiring greater mitigation than you're impacting is concern that you're not going to be successful. If we knew that you could replicate acre for acre, there is no legal basis for requiring a mitigation ratio over one.

ALLEN: Then why wouldn't we want to have that goal stated right up front since we're achieving it anyway? Why not state it --

LOWRY: What I'm suggesting is you're -- well, again, I think that --

LEE: I would say that we're talking about the functions and values, not acreage. You might have a different range of functions and values over a wide range of acreages so it's imprecise in looking at it as if the mitigation ratios because they're higher are or are not getting us even further than we hope towards achievement of the goal or not quite as far as we hope towards achieving the goal and that's why as a staff we're more comfortable with the goal statement.

VARTANIAN: How about unless otherwise permitted in the ordinance no net loss?

LOWRY: Well, except that then you're making it sound like it's regulatory. I think if the Commission is inclined to believe that it is a good idea to have that as a general policy statement then put it in there, but make sure you say further the goal of no net loss and not achieve no net loss. I don't think it will have an impact one way or another in terms of how the ordinance is construed or applied which is the reason that I didn't recommend -- I recommended against having it, but there may be other good reasons to have that generalized goal in the ordinance.

DELEISSEGUES: It seems to me in some cases you might want to trade off more acreage of Type IV for less acreage of Type I. I mean looking at quality you may be willing to give up a bigger acreage of low quality wetlands to in perpetuity to provide for a higher quality but maybe fewer acres. Is that something, Pat, that you're alluding to or not? You know, is quality and quantity tradeoff?

LEE: Well, certainly the functions and values of a Category I are higher than the functions and values of a Category II now, you know, whether it's a Category I or a Category IV they're still providing functions and values, but how do you pin that down in terms of the ultimate outcome is something that I'm certainly not able to do.

MOSS: It seems like there's a lot of inherent imprecision in this functions and values term anyway, you know, it's not just comparing a Category I to a Category II, it's comparing a Category I to a Category I, you know, how do you define the functions and values in a way that would be precise enough to really measure whether or not you've fully I guess preserved those with any degree of accuracy. I'm kind of bothered by this too, that if you put that kind of terminology up there in the purpose statement, it begins to sound regulatory and, Brent, I may be wrong about this, you may have a higher level of confidence than I do, but it's hard for me to imagine that two biologists could really agree, you know, if both had to write their conclusions on two sheets of paper without looking at each other, you know, with any degree of real precision what the functions and values were. I think it's tough. It's qualitative, it's a judgment call.

DAVIS: Well, there are functional assessment methods and they are scientific and they are result in numerical results.

MOSS: Right.

DAVIS: The funny thing about them is you're absolutely correct, even using those frameworks, two different experts can get different answers. And also you can apply the same methodology to two wetlands and get essentially the same scores and not be confident that they're exactly equivalent, that those don't necessarily, you know, even comparing similar wetlands it's not always comparing the same thing.

DELEISSEGUES: I think that goes for all resources, you just have to look at OSU and their determination on revegetation after a fire and the Biscuit Fire, I mean you got two schools of thought there for sure and they're 180 degrees out of phase. And they're both best available science by the way.

LEE: One of the challenges of dealing with best available science, you're right.

BARCA: And I think originally this was an aspect of the purpose and framing it in the context of a goal puts us in a position whereby by framing it that way we take it out of the mistakenly having it be regulatory in somebody's eyes, it's a goal, it's part of the fundamental reason that we're trying to do this. We are trying to get conservation, we're trying to get protection, we have a habitat and a fisheries component here that is exclusively reliant on our ability to provide function and value. If we don't put that in the context for the public that says this is the reason why we are going to this extent and these great lengths to inherently put value on land that is wet the majority of the time, then there's really no reason for us to be backing this, this is something that we are making in the form of a quality of life statement for the way that we want the county to function and what we think is important in the form of societal values.

It's just a goal but at the same time it says that the staff and the elected officials will take serious the idea that conservation and protection are important towards the long-term viability of those fisheries and that habitat. So I would say as I left the meeting last time that the no net loss statement was important to me before and if we want to frame it as a goal I am not opposed to that because it still I think speaks towards the aspect of what we're trying to do with this ordinance.

MOSS: Well, I guess I'm opposed to having that in there either as a goal or as the purpose and the reason being I don't think it accurately reflects what this ordinance is about for the reason that Rich mentioned. We may have -- we may accurately say that the goal is to minimize the loss of functions and values, but we already acknowledge through some of the exemptions in here that there are going to be minor losses at least and we're automatically by implementation of this ordinance going to or not going to meet that goal of no net loss, but we recognize that there are going to be some minor losses and we recognize that there are good public policy reasons for those, you know, the interest of fairness, the interest of how do we administer some of this, it's really about minimizing, it's not about no net loss.

ALLEN: On the other hand, if we chip away at the resource, pretty soon that resource is not going to be there and unfortunately we cannot go back and reconstruct some of those wetlands because it's impossible for us to do that and it would be very costly.

MOSS: Well, you know, while I don't disagree with that, but my point is the ordinance itself is not a no net loss ordinance.

LOWRY: And that's why we, staff, has suggested that if you're inclined to have a no net loss statement that it read further the goal and not as was recommended achieve no net loss.

ALLEN: Yeah, the goal sounds good because that is the goal.

BARCA: We have a lot of goal statements throughout ordinances that are tied to growth management that we have the best of intentions but we aren't able to hit the mark on. They're still reflective of how we would like to see the county framed and what our best intentions are, but we're not necessarily hitting the marks on those.

MOSS: Yeah, Ron, you know, I don't have any problem with lofty goals, the problem that I have is that if we set a goal in the beginning of this ordinance that says that we're going to have or aspire to no net loss we're lost from the beginning because the ordinance allows some loss, it doesn't accurately state what the purpose of the ordinance is or what the goal of the ordinance is.

BARCA: Well, the very first form of mitigation is avoidance and --

MOSS: It is. It is. And yet we still have a number of instances where we acknowledge that there are going to be minor losses because we exempt those losses.

BARCA: Right. Well, and we have a goal for affordable housing in the community but occasionally we go ahead and permit housing that doesn't lead us towards that goal. We don't stop things from happening because they are in conflict with the goal if indeed fairness and the right to develop put them in place, but what we do look at is the aspect that it is a value that the community wants to try and motivate and put forward to the best of our ability. I think when we're talking about this in the aspect of no net loss, what we're saying is the goal is there for staff to do everything possible to mitigate in the fashion of those degrees in which it's laid out which first is avoidance and then second is the aspect of minimizing the impact. I see that we, you know, we're at a philosophical difference. You're saying because there is going to be some loss, then it's inappropriate to have that as a goal.

DELEISSEGUES: Wouldn't the word "minimize" more accurately characterize what you're saying though? It seems to me it would.

MOSS: Well, certainly it is, that's what you're saying. You're recognizing that it isn't going to be no net loss, this ordinance recognizes that, so it is about minimizing the loss.

ALLEN: But minimizing implies that it will be just incremental minimizing so there will be a substantial loss because you're just minimizing versus protecting. And unfortunately I have seen it in other jurisdictions and once the ball starts rolling it's hard to stop it and especially when you

have fragmentation of some of the wetland watersheds and wetlands that are integrated and basically functioning together as a big giant system and all of a sudden you start just minimizing instead of protecting those particular strategic areas, then you eventually lose that resource.

WRISTON: Okay. Go ahead, George, do you have something real quick?

VARTANIAN: I think, you know, just I understand what you're saying, Lonnie, about the terminology of goals that since we know we're not going to be able to meet it so why say it, but I think the whole thing, the whole purpose section, you can apply that philosophy to the whole purpose section when nobody's going to go in there and enhance a wetland, they're going to utilize it and move it someplace else perhaps. I mean the likelihood of that happening is just as much as the likelihood of setting up a goal to have no net loss.

ALLEN: Or donate the property to the County bank.

VARTANIAN: I mean I agree with you, the fact that if you say an objective of something is to do something when you know it's never going to happen 100 percent of the time or 50 percent of the time, it doesn't say that we shouldn't at least have a stated objective in there somewhere.

WRISTON: All right. Let me suggest this, I mean we had a good discussion on this aspect and there may be a little bit more, I think I've written down most of the larger concerns. We'll take a ten-minute break and then when we come back I'll try to kind of reiterate what I heard to be the larger concerns and then we can kind of just go down the table and I think before we make a motion just go down the table and let everyone kind of say their piece because I think I know that some people have, you know, George for instance, I know has mentioned he's got some changes he'd like to make and if I don't hit them, you know, talk about them and then someone can try to formulate a motion. For purposes of George and Milada, I mean, we don't necessarily have to pass on a unanimous vote and we can just -- I mean it's the value of our discussion that helps the Commissioners so. Let's take a ten-minute break and then I think we'll be able to wrap this up here fairly quickly.

(Pause in proceedings.)

WRISTON: All right. Let's return to the Planning Commission on the wetlands ordinance. Just quickly I think I'll run down, and I know I'm going to miss some things, but I'll run down some of the --

BARCA: This will be good.

WRISTON: -- larger issues. Yeah, this will be good, the larger issues that I wrote down. The first one that came up was the on the moratorium, whether or not we keep track of properties and how that's filed. The monitoring and the, and/or the implementation funding for monitoring that Milada talked about and the possibility of a fee for monitoring. Stormwater facilities and wetlands functions and using stormwater facilities to our advantage with respect to the wetlands. The



off-site mitigation wetland banking issue and as part of that kind of a again just general concepts that I heard part of a coming up with an overall plan or guidance for strategic wetlands and in what areas, and, you know, Dick had mentioned, and I actually agree with him on this, that it is, but it's part of the nature of what it is as well. I mean it's part of the nature of the beast, but it is a tough ordinance to get through if you're not one that's used to reading ordinances.

We talked about a cumulative effects fund that was also part of that mitigation and banking discussion. And then we got into the no net loss functions and values discussion and whether or not -- I think what I heard is that what it comes down to is whether or not we would put in some sort of statement that says that the ordinance is to further the goal of no net loss or not or minimize. And then Pat pointed out that we also don't -- do not want to lose sight given the various drafts that we've had and the amount of paper that we've had that the amendatory code amendments associated with the wetlands ordinance, which if you recall is this paper right here, I don't know if you all can see it, but those are not incorporated anywhere in and that's the one I think Pat discussed towards the end of the meeting last time, but those are not incorporated anywhere in a specific draft and so any motion would need to include or specifically not include these amendatory code amendments.

So I mean those were the kind of highlights I picked up. I'm sure I'm missing some things, I know that there's probably some additional language people would like to see. If no one objects I think what we'll do is start with Ron and just kind of go down and get a general feel for where people -- where you're all at and some of the changes, if any, that you'd like to see and then hopefully we can strike a motion that may or may not include those changes. So, Ron, do you mind starting?

BARCA: Well, because we're having this discussion right now to expect specific wording on the issue of the stormwater facilities seems unrealistic, but I would genuinely like a motion to include the aspect of staff going into the ordinance to try and utilize a stormwater facilities for the aspect of combination of the functionality of the wetlands themselves to help with the design characteristics of those stormwater facilities and perhaps creating a better functioning outlet for the way that we handle our stormwater today rather than the aspect of designing stormwater facilities to be exclusive even though they may be adjacent to or even placed in the buffers of wetlands. That's one item. And then I would like to see the aspect of the goal statement on no net loss placed in the purpose statement as I believe it's a measure of public values. That being said, I won't try and strike any particular language out of the ordinance, but for the Commissioners --

WRISTON: We just lost mic, we lost sound.

BARCA: Do I need to wait or can I just like speak normal?

WRISTON: I think we got to stop. Yeah, it's still off.

WISER: It's back on.

BARCA: No, you're on.

LEE: It's back on now.

WRISTON: Am I on? Okay. Go ahead.

BARCA: Thank you very much Channel 23.

WRISTON: Go ahead, Ron. Where were you?

BARCA: I've already put my concerns about the aspect of loss of functionality and values to specific watersheds for the sake of banking and mitigation in other watersheds and I would ask that the Commissioners not move on this issue until the County is able to tell the public what their intentions are towards the aspect of banking and whether or not we're going to be utilizing banking for the sake of enhancement or improvement to specific targeted, I believe the word that Milada used was strategic watersheds, I think it's fair and appropriate for the public to know that we are going to be trading function and value from particular watersheds to specific watersheds for their enhancement. That's all I've got.

WRISTON: Okay. Thanks, Ron. Jada, do you have any thoughts or comments on this?

RUPLEY: I guess my thoughts are similar to what Dick said to begin with, as I read through Pat's staff report talking about why they were sticking with some of the things that they were and offered some suggestions, I'm fine with that. I guess as far as the no net loss language, I guess if I had a preference it would be more to improve the quality and the ratings of existing wetlands rather than worry so much about the no net loss, so I'm kind of ambivalent on that part.

WRISTON: Okay. Thank you. Dick.

DELEISSEGUES: As I said at the beginning, I think that the staff has done a workman job in crafting an ordinance that walks a pretty tight line between property owners and their interest in being able to develop their land on the one side and certainly the regulatory requirements sent down by Federal and State and different acts and requirements from the Department of Environmental Quality and so forth, but what we have to have to meet the land management requirements. So we don't meet necessarily all the requirements on one side or the other, I'm sure that nobody's going to be particularly 100 percent satisfied with the outcome in this ordinance, but I think it does a good job of providing the flexibility that we asked for when we started the rewrite. And I think also that there are issues out there that the Supreme Court are looking at and with the Corps of Engineers 404 permitting process, certainly Measure 37 in Oregon is going to be something that the people in Washington State are going to eventually take up, so there's a lot of things that could cause change.

I don't think that this ordinance is written in concrete necessarily. It's a very good ordinance I think to go forward with at this point in time. I think certainly like any other ordinance subject to

reconsideration based on what may happen in the future and for now I think it's a very workman-like product as I said. And I could nitpick it in half, I helped Pat last time when we were pointing out a bunch of things that I thought could have been more clear in the language and so forth, but overall I think the intent of the ordinance is good, it meets the requirements as far as I can tell as good as an ordinance that we would craft can do.

As far as some of the specific goals and objectives of it, whether it's no net loss or minimize or whatever, I lean toward minimize myself but, and I'd rather see quality in the wetlands that we preserve rather than just worry about acreage and quantity. I'd trade Category IV for Category I any day and maybe change the acreage four to one or some ratio to try to get a better quality wetlands under preservation. And I think that there's a lot of effort gone into this ordinance to encourage people to do wetlands preservation as much as they're able to on their own land and I think that's going to be the key to success is to encourage people that own property that have in the past done a good job of managing their land and keeping the rural character of Clark County that we have today and maintaining some sort of an encouragement that they continue to do that in the future rather than worry about an ordinance that may be so restrictive coming down the pike that they have a tendency to sell their land right now and get out from under it and encourage more development rather than continue the practices of the past that have given us what we have now. How's that for a soap box?

WRISTON: That was pretty good. George.

VARTANIAN: Well, I also would like to express my support for a goal of no net loss.

HOLLEY: Mic.

VARTANIAN: Mike who. I would also like to endorse the no net loss or the goal of no net loss policy just because I think it's a very admirable thing to go after and the fact that we may not be able to attain that goal does not mean that we shouldn't incorporate it in our thinking. I hadn't even thought about using the wetlands buffers themselves for water runoff and it just almost seemed to me as self-evident of truth but apparently the code doesn't say that so I didn't quite grasp that. The only other comments or suggestions I would offer is that on Table 40.450.030-5 that we move the fairways from the moderate -- the parks and recreation thing that we move the fairways from moderate to the high usage just because of the constant onslaught of mowing and fertilizing and whatever else goes on on a, all us non-golfers don't do that. And I'm dealing on Draft 13 now Page 12 on Line 48 I would rather see any time we're going to be moving something in intensity that we would move it by one category. And on Line 13, line, I'm sorry, Page 13, Line 24, I'm sorry 25, that we strike "or low intensity buffers," b, "Low Impact Development Design." Do you see where I am, Pat?

LEE: Page 13, Line --

VARTANIAN: Page 13, Line 24, b, "Low Impact Development Design. High intensity buffers may be reduced to moderate," and strike "or low intensity buffers." And I think I've said my piece.

WRISTON: Okay. Thank you, George. Milada.

ALLEN: I would like to see the further goal of no net loss put back into the ordinance. Would also like to see that there's some sort of a condition compliance mitigation fee collected for monitoring of conformance with the mitigation plans. And also I would like to make sure that there's some sort of a mention of preservation of strategic. Just like Ron had re-summarized some of my other statements before and I don't want to re-summarize it again. Then I would like to see under the "Existing agricultural activities" which is in Draft Number 13 on Page 3, Item c, existing agricultural activities I would like to maybe add agricultural activities determined to be in operation at the time of adoption of this ordinance, but I would like to add at the end where it says "are exempt from regulation under this ordinance," if there's no increase or change in activities or areas farmed.

WRISTON: Did you get that, Pat?

LEE: I think so. Let me paraphrase if I can. Basically --

ALLEN: Do you want me to read this one more time?

LEE: I'm trying to get the concept first. The concept is if you have -- if it's determined that there is an existing agricultural operation it, if you will, it has sort of a certain footprint --

ALLEN: Correct.

LEE: -- but if that footprint expands that would not be exempt?

ALLEN: Exempted, that's correct. Yeah, because otherwise you can keep changing and adding as you go. Been there, done that. Also on Page 10 I would like to add in Item Number 3 at the bottom of the page where it says "in urban plats and subdivisions, wetlands and wetland buffers shall be placed within a non-buildable tract," I would like to add as mapped and recorded. Sometimes some of the nonbuildable lots do not get through recordation. And I have spoken enough today. Thank you.

WRISTON: Okay. George, you said you had one more.

VARTANIAN: Yeah, I'm sorry, I skipped over one of my, and I'm not even sure how we, how we or if we could do something, but could we add something about not disturbing Category I and category, and maybe Category II wetlands?

MOSS: At all?

VARTANIAN: At all.

WRISTON: At all? Well, you can, you're certainly welcome to --

VARTANIAN: Well, my thinking is that according to the definitions that I've seen and what I read Category I at least is something that is like next to impossible to mitigate, if at all possible, and that they're unique, they're long in making and very sensitive and all that good stuff. I realize that means that somebody's going to be holding your piece of property with some Category I wetlands on it, but maybe some economic restitution could be made.

LEE: Well, George, can we take a look at Page 15.

VARTANIAN: Of Draft 13?

LEE: -- of Draft 13, Line 16, I don't know if that does it or not.

VARTANIAN: It sort of gets there, but I know that some of the Commissioners have been talking about keeping wetlands wetlands and I don't know if they have this kind of thing in mind. Or it just seems to me that Category I wetlands are so distinct in their nature that maybe we should never disturb them if it's at all possible, you know.

LEE: So is it you're suggesting to go back to the purpose statement instead of higher protection to or amending that statement saying --

VARTANIAN: To avoid all disturbing, disturbing any Category I or, and/or Category II wetlands and maybe build something in there to give restitution to property owners that we've just done this to.

ALLEN: Or an incentive.

VARTANIAN: Or incentive, yeah.

BARCA: I think within the concept of "reasonable use" though we're going to have a direct conflict in the aspect and without a mechanism that's already in place to compensate for reasonable use I'm not quite sure how it would be workable.

VARTANIAN: Yeah, I'm not --

BARCA: We haven't been able to ever bridge that particular scenario because in essence it's a taking without us being able to give some sort of --

ALLEN: Isn't there in the Department of Ecology's under subdivisions they do not allow subdivisions within -- on lots that are contained in wetlands Class I and Class II?

LOWRY: Rich Lowry again. Ecology doesn't regulate, the County regulates it when it comes to subdivisions. Ecology can make recommendations as to what our regulations ought to be. My concern with a straight prohibition against regulation is the reasonable use issue. At least that's

my foremost concern. I guess I also have a concern that as a practical matter, and I'll ask Brent if this isn't correct, it is very expensive to develop some portion of a Category I wetland and it is probably the most difficult one to prove up that you're able to mitigate, but there may be some developments that occur where they can't occur unless they do intrude to some degree in a Category I wetland and I'm not sure what the consequence would be particularly for takings if we had an absolute prohibition.

VARTANIAN: No, I realize it would be equivalent of a taking, which was why I was trying to think of a way to get that in and protect the owner of the property, but okay.

DAVIS: Let me put an example out there. I guess it's the 502 interchange, there's Category I wetlands in the medians between the existing lanes, there's Category I wetlands to the west that are going to be affected by that project because of the presence of an endangered plant species and if you had an outright prohibition the project just couldn't move forward.

MOSS: Brent, I'm glad you said that, you know, it's good to keep in mind that this isn't all about subdivisions, you know, the County is also subject to these same regulations and we have transportation facilities that simply have to pass through some of these higher quality wetlands if they're to be built at all and, Brent, yours is a good example of that, an outright prohibition just is impractical. Yet on the other hand I think that Category I and Category II wetlands are the ones that all of us would agree need to be protected and those are I think rarely intruded upon unless there's very little alternative, but you could easily have a situation where you need to cross the Category I wetland to get to a large parcel to develop it just to provide access and --

VARTANIAN: Okay. All right. I take it back.

DELEISSEGUES: And that happened in Ridgefield, you know, with the Stenerson's development where he had to build a bridge across the wetlands it held the project up for about a year, but, you know, they mitigated it.

WRISTON: 192nd too. Okay. Lonnie.

MOSS: I think I've already stated my feelings in sufficient detail on the goal of no net loss, I think it's inappropriate, I'm not going to say anything more about that. I have a couple of concerns still about things that haven't even been mentioned at this point and one of those is the change in the ordinance which prohibits urban lots from extending into the wetland or buffers, I think at a minimum there needs to be some discussion about the impact that this has on the development potential for properties and this, the difficulty here is that we have minimum lot size requirements in this county and while it may be possible to site the building sites outside of the wetland and the wetland envelopes, it's almost in many cases there's simply not enough area between the property line and the wetland or the wetland buffer to really get a lot in there that meets the dimensional standards. Now it isn't, you know, it isn't impossible to just throw those lots away, but that is a big impact on the development. And I'm talking about a situation where here for example in a R1-6 zone we have a 90-foot minimum lot width, well, if you only have 80 feet between the

property line and the buffer, that means you can't have a lot there unless you get a variance to that.

Now this says you can't do that or you can't extend into the buffer or the wetland with the lot unless a tract is impossible, then it goes on to say if the County determines that a tract is impractical, not impossible but impractical, then they can make a decision to not do a tract. I think as a bare minimum I would change the "impossible" to "impractical" in both cases, but I think further consideration needs to be given to the effect that this is going to have on the developability of properties.

I have a concern on Page 10 of Draft 13 in the table in the low intensity residential density at or lower than one unit per five acres. I want to verify that the intent there is to talk about this in terms of density over the whole site, not just individual parcels, because what this would do is essentially if it's interpreted to apply to any lot that's less than five acres in size, it would discourage cluster development in the rural area and I don't think we want to do that. So I'm assuming that we mean that the overall density is one unit per five acres and not individual lots.

LEE: That was the intent, yes.

MOSS: Okay. The other comments that I had were on that same page too that's in urban plats and subdivisions that you can't include wetlands and wetland buffers in the lot, that is a big departure and quite a policy change from what we've had in the past and I know that that's getting to be more popular among permitting jurisdictions, I think it has some adverse effects that may be greater than we intend. I've been on this Planning Commission long enough to know that I have a great fear for unintended consequences here. We've written a lot of ordinances where we didn't think that we were having much of an impact and in fact we've had a horrendous impact and I think this has the potential to do that. I expressed some concerns earlier about the limitations on placement of stormwater facilities in the wetlands and the higher quality wetlands I can understand, but, you know, there are often pretty unintrusive ways to use a wetland as a water quality facility for detention only that often it takes just a small intrusion to build a dam, you don't have to go in and excavate the whole wetland to do that, and I wonder here if we're kind of precluding something that as a matter of public policy we ought to be encouraging, so I do have some concerns about that. And it may be that just the inundation by water is affecting the habitat value more than I think that it would be and I'm not a good judge of that.

LEE: About the only comment I can say that actually at least this provision, although there has been some suggestions for alternative wording, is basically the same as the current ordinance.

MOSS: Same as the current ordinance, but this is a good time to consider whether we're, you know, whether we're appropriately restricting stormwater facilities. I would hope that the Commissioners would take a further look at that and that staff might be in a better position to comment on that when it goes to the Commissioners. And I think that that's all that I have.

BARCA: Lonnie, on your first point that you were making concerning the aspect of siting a lot in

relationship to the buffers, I wasn't able to actually follow what section in the draft you were referring to.

MOSS: Oh, I'm sorry, it's on Page 10, Number 3 at the bottom there.

WRISTON: Lonnie, are there other ways to -- are there ways to include it? What you're worried about are the minimum lot requirements, are there ways to include it in the tract but protect it at the same time that you've come across?

MOSS: Well, I think that there may be and they're, you know, there are, have been, you know, density transfer provisions that can be put into place here, but we also have some restrictions that don't automatically go away too. One of those is that the lot can't be smaller -- as many of you may recall from previous ordinances here can't be smaller than a certain percentage of the zoning on the adjoining land, that was a -- that in itself if this is a bordered lot, one boarding the property boundary it may make it impossible to site lots here in a narrow strip of upland. So I would really like to, and I'm stumbling a little here, but I would really like to have identified this as much earlier in the day here and had staff take a further look at this. And I regret bringing it up this late, but I think it is one of those unintended consequences that may prove to be much more significant than it appears here.

ALLEN: When I used to manage the Land Conservation Act Program we had, quote, unquote, conservation areas and, but they did not affect the net lot, legal lot size, so it was still a buildable lot, it's just that some of these particular areas could not be built on.

WRISTON: I guess that was my question is conservation easement of some sort or --

LEE: Well, actually the cross-reference in that section to 40.450.030(F) is basically you mark the buffer, you do a conservation covenant, so it is a requirement that even if it is not in a nonbuildable tract per se, it is identified as wetland and a conservation covenant is requested.

ALLEN: And the map itself is recorded with the covenant?

LOWRY: Right. But I think the reason for this provision is County experience that once it's in a residential lot, even if it's ostensibly protected by a conservation covenant the owner of that lot sees it as his backyard and it's difficult to get that owner to --

VARTANIAN: Not put a swing set in it.

LOWRY: Yes, not put a shed and not -- all that sort of stuff. But what I hear, you know, Lonnie's objection could potentially be met by having an exception or an and unless clause added to the ordinance that says you have to put in a separate tract unless except to the extent that putting in a separate lot would result in the loss in lot yield so --

MOSS: Yes.



LOWRY: -- that to the extent that you need to get the lot yield that you're otherwise entitled to, you need to have some of the lots have a portion, you could still have the majority of the wetland contained in a separate tract.

MOSS: Well, the thing -- there's another thing that concerns me here too and that's that if the wetland buffer for example is in the lot itself, then a structure can be built right up to the wetland buffer and that would be appropriate. It's outside the wetland buffer but if you put the lot line at the wetland buffer, then you have a setback from that, a rear yard setback or a side yard setback.

LOWRY: Right. And I think a counter argument to that would be we want you to have a setback from that because otherwise you're going to have the property owner be really inclined to make use of the buffer as his backyard. But I think a provision, I don't know whether staff would agree with it or whether the Board would, but a provision that says at least you don't lose lot yield because of this requirement would be a reasonable compromise.

MOSS: I would think so, uh-huh.

BARCA: So as I hear you say that, Rich, and I'm trying to understand with what we're trying to accomplish then, we would be looking at the aspect of perhaps a deviation from minimum lot size or an averaging mechanism that would --

LOWRY: No, I was thinking of a straight exception to the requirement you include the wetland and buffer in a separate tract, an exception that would only apply to the extent necessary to get your lot yield. So you could have --

BARCA: So describe for me what the exception looks like then? That the property line would enter into the wetland --

LOWRY: In the example Lonnie --

BARCA: -- or buffer?

LOWRY: Yeah. In the example Lonnie gave where you had a 90-foot front yard or --

MOSS: Lot depth.

LOWRY: -- lot depth requirement and a buffer that extended within 80 feet of the front yard or the front lot line, you would be able to include 10 feet of the buffer in the lot so you --

MOSS: So you could meet the minimum lot size.

LOWRY: -- so you could meet the minimum lot dimensions, but the rest of the buffer and wetland would be in a separate tract.

BARCA: Okay. So utilizing I guess that particular example then, we would be accepting the fact that the homeowner would indeed be using that --

LOWRY: No.

BARCA: -- that 10 feet of buffer as his backyard?

MOSS: No.

LOWRY: No. No. You'd still have the conservation covenant that would tell him that he's got to maintain it in its natural state and there would still be the requirement that you have the little sign saying it's a wetland buffer so it would still be in theory protected as much as the area in the separate tract, but again, our experience has been when it's in the residential lot it's much more difficult to get --

BARCA: It's pretty much his backyard.

LOWRY: -- compliance. Yeah.

VARTANIAN: Can't we say something like with the minimum lot depth is 90 feet with the exception of the peripheral lots, and that's probably bad language, peripheral lots, that back to a wetland buffer or wetland and then you could make the lot deep enough to go to it but not to encroach?

LOWRY: As soon as you -- the trouble with that, as soon as you do that then you get into problems with setback requirements and the ability to put a conventional. I think it's probably a much more practical way to deal with just to say the general rule is separate tract but you can utilize a portion of the buffer or wetland to the extent necessary to get your lot size. And, you know, again, we'd have to work out the specific language but I think the Commission could recommend the concept.

ALLEN: But then of course there's always an advantage of having it in a separate tract is that you will be taxed at a different rate and the Assessor's Office will not have to determine where the boundary is to begin with, but also if it's going to be recorded, then there's full disclosure to the next owner.

WRISTON: Okay. Ron.

BARCA: So for my clarification, we're looking at Section 40.450.030(F) as how we're going to go about making that delineation which is the marking of the buffer, permanent marking and buffer area, is that the intent then?

LEE: I think that that provision would be retained as it is. I think the specific exception would be

over on Page 10 immediately underneath the table starting with Line 7 there underneath the table, maybe we'd probably put the exception right in there.

BARCA: Okay. And then the wording about rendering a tract impossible would be stricken or modified?

LEE: That might be appropriate if we have that explicit exception.

LOWRY: I think there would be two exceptions, one, and I tend to agree with Lonnie, impossibility is probably too high a standard, impracticality would be one exception. A second exception would be where necessary to meet lot standards or lot yield.

BARCA: Okay, that clarifies it for me. Thanks.

WRISTON: Okay. I -- just my quick comments. First of all I don't think we're going to get a clean motion on this so we'll see and I'll kind of sum up what I've heard too and say where I agree and disagree because I think all the highlights again have been hit, but I think in general it's a very good attempt, and as Dick said and several others, a good attempt on everyone's part to move this forward. On the no net loss I think we are all over the board with the exception of Jada who's ambivalent on it so far, but I agree with, and that's part of being all over the board too, but I agree with I think Dick and Lonnie on that, I lean towards not having that in but more of a minimization standard. And I especially agree with Dick when he says that leaning towards quality versus quantity and more of the functions and values.

Definitely agree with utilizing stormwater facilities and having staff look at that to the -- I just think there's something there that we're missing and shouldn't be too restrictive on that. No offense, George, I don't agree with either of your changes on -- I don't agree with the fairways from moderate to high or striking the low intensity buffers on Page 13, and again I don't think it's going to be a totally clean motion, but these are my opinions. I don't think I have a problem with what Milada suggested on the agricultural activities, determine existing and again, if there's an increase or change I think that's implied, but I don't think I have a problem with that. I do agree that we do need to get better at monitoring of mitigation.

LOWRY: When you're complete let me talk a little bit about the ag issue.

WRISTON: On the monitoring and mitigation plans I think we get better at that. I don't know whether it's right or not to impose additional fees, I think that's a policy question that someone could suggest something, but that would be up to the Commissioners. I don't agree with not disturbing Category I or II and I think, George, you, yeah, I know you --

VARTANIAN: I took it back.

WRISTON: Right. And agree with the changes that Lonnie discussed and the language that needs to be worked out, but the potential change that Rich suggested and working on that on the

section on the wetland and wetland buffers within urban plats and subdivisions and changing "impossible" to "impractical." So those would be my comments. Rich, do you want to talk about agricultural real quick?

LOWRY: Yeah, just real quick. In terms of the concern about agriculture expansion, essentially what the wetland ordinance proposes to do is default to the habitat ordinance. The habitat ordinance as is currently proposed includes a provision allowing expansion of existing agricultural activity but has a percentage limit, I can't remember what it is, it's ten percent or something like that, if we have the wetland ordinance say that no expansion, then we're going to have a sort of a conflict between the two ordinances. And I guess my recommendation frankly is to leave the ag issue alone here, let the Board struggle with that, it's going to be a major hearing issue for them when they hear it, a very complex issue and I'd leave it to the habitat ordinance and the way this is proposed. And again, the issue of expansion is dealt with in the current draft of the habitat ordinance.

ALLEN: And it's also exempt because this particular paragraph was talking about exemption --

LOWRY: No. No.

ALLEN: -- and that's why there is no increase then, they're exempted?

LOWRY: Yeah, I should emphasize that under the habitat ordinance existing agriculture is regulated, it's regulated to a lesser extent than new agriculture, but the ordinance proposes, which essentially means that you can get closer to the stream if you've historically been closer to the stream within existing agricultural practice. But in recognition of the fact that an existing large agricultural operation may have a legitimate need to expand, the ordinance provides a limited ability to expand, still you're regulated but you're subject to a different set of regulation than a new agricultural operation would be subject to. So very comprehensive regulations under that ordinance and I think the staff recommendation to the wetland ordinance simply defer over to the habitat ordinance makes a lot of sense.

WRISTON: Okay. All right. Well, now's the time for -- I think we're ready for a motion. I think just for George and Milada's benefit I mean I think we can get a motion, I think we all it sounds like, and I don't want to put words in people's mouths, but it sounds like we want to move this forward but for probably a few differences, and again, I can run through those if you want again, but I don't want to if you don't want me to, but I think we have a few differences that the no net loss probably being the biggest. Someone make a motion, someone second it if they want, and then, you know, I don't think that you necessarily have to vote if you agree or disagree with a certain aspect in that motion, you can vote yes, I'd like to move this forward but I specifically disagree with this point and this point and just, you know, I'd ask staff just to make sure that that's pointed out to the Commissioners at that time so at least we move it forward with a recommendation.

VARTANIAN: Do we want to consider voting on the individual aspects as the ones that were questionable and then the result of that vote gives you the motion?

WRISTON: You know, I don't know that that's --

VARTANIAN: No. Okay.

WRISTON: Yeah, that's something I was thinking about and, Rich, I don't or, Pat, I don't know, what would you guys prefer in terms of how you'd like to present it to the Commissioners?

LEE: Well, I think there is two or three issues where there seems to be quite a split and I think it would probably be good to take the individual vote on that just so we know and then based on the results of that put together the overall motion. Still, you know, individual Commissioners have a right to point out that they may disagree with a certain part of the whole motion.

WRISTON: Let's do that then.

RUPLEY: Is that then also where Milada would talk about her concern about the agriculture to make sure that it goes forward as a point of record?

LOWRY: Well, the Board reads the entire minutes so they'll see all that.

RUPLEY: So they'll see, they'll see all that. Okay.

WRISTON: Okay. Let's take and, Pat, you'll have to help me on the two or three, I think the largest issue obviously and the no brainer for me anyway is the no net loss and I think if someone just wants to make a motion one way or another we can go from there.

ALLEN: I make a **MOTION** that we add further the goal of no net loss.

VARTANIAN: I **second**.

WRISTON: Second. Okay. Is there any discussion on that?

BARCA: I would like to discuss the idea of no net loss. When I was discussing it I included the wording on it as a function and value to try and move away from the aspect of just net acreage. Because of the discussion that we had had before that we recognize that there will be some loss of acreage I think it puts it more into the vein of saying that we want to protect the quality of the wetland. So I would actually prefer to have the amendment or have the motion amended to include function or value.

ALLEN: And value?

BARCA: And value.

VARTANIAN: How about further the goal of no net loss of wetland functions?

ALLEN: And value.

VARTANIAN: And value.

BARCA: So, Mr. Chair, can --

WRISTON: Yeah, I mean --

BARCA: I'm asking the people --

WRISTON: You're asking to amend --

BARCA: I'm asking the person who made the motion if we can amend.

WRISTON: You're okay with that?

ALLEN: Yes.

WRISTON: But are you okay with --

ALLEN: Yes.

WRISTON: -- you said "or" and you seem to be trying to -- you're okay with "and"?

BARCA: She as the person making the motion said "and" and I will defer that.

ALLEN: Okay. Let me retry the old motion and make a **NEW MOTION**. I suggest that we add "further the goal of no net loss to protect the functions and values of wetlands."

BARCA: And I'll **second** that.

**ROLL CALL VOTE**

BARCA: AYE

VARTANIAN: AYE

RUPLEY: AYE

MOSS: NO

ALLEN: AYE

DELEISSEGUES: NO

WRISTON: NO

WRISTON: But I will say I prefer the change that Ron did compared to the outright but no.

RUPLEY: And that changed my ambivalence when I heard that versus acreage so.

WRISTON: I figured. Okay. All right.

VARTANIAN: Can you change ambivalence?

RUPLEY: Uh-huh, Sunday's.

BARCA: We're not sure.

WRISTON: Help me out, what other areas do you all, either staff or the Planning Commission, feel strongly that we have some disagreement on?

LEE: If I could suggest a couple.

WRISTON: Yeah.

LEE: One just because it has been a very -- an issue that's been spoken to quite a bit I think some read on the agricultural activities, how you want to leave it would be appropriate.

WRISTON: Okay. On agricultural activities. Rich suggested that we just leave it alone. I mean Milada had some thoughts. Is there a motion to that or discussion on that?

ALLEN: We can leave it alone as long as it's addressed at a future time.

VARTANIAN: I agree.

WRISTON: Okay. Is that a motion, Milada?

RUPLEY: We don't need a motion.

LOWRY: You don't need a motion.

ALLEN: You don't need a motion.

WRISTON: I guess that's true. That's a good point. That's true, if we're just going to leave it alone, we'll leave it alone. All right.

VARTANIAN: Do we want to pursue the reduction in categories by one or two that I pointed out?

LEE: I think it would be good to get a read on that, yeah.

WRISTON: On the urban the platting?

LEE: Well, let me go through kind of in order with the ones that I think would be helpful.

WRISTON: Yeah, go ahead.

LEE: The next one I would go to would be the discussion regarding the nonbuildable tracts in urban subdivisions where we -- I mean there seems to be a growing consensus of the exception language that Rich had suggested but I just want to make sure that that's clear.

WRISTON: Okay. Is everyone set? Discussion on that or a motion?

VARTANIAN: Move that we accept the alternative presented by Mr. Lowry. I don't know the words to it but --

WRISTON: That they just explore it --

VARTANIAN: Yeah. Yeah, I'm sorry.

WRISTON: -- and work on it. That's all right. Is there a second to that?

MOSS: Second.

WRISTON: Okay. Discussion?

BARCA: I need to just clarify for the motion. We're striking the "impossible" portion?

MOSS: Yeah.

LEE: We're striking the "impossible" and changing that to "impractical" and adding in the specific exception about losing a lot because of shallow lot depth if that is what happens.

WRISTON: Okay?

BARCA: Yes.

### **ROLL CALL VOTE**

DELEISSEGUES: AYE

RUPLEY: AYE

VARTANIAN: AYE

ALLEN: AYE

BARCA: AYE

MOSS: AYE

WRISTON: AYE



WRISTON: Okay. Motion carries. Pat, next.

LEE: I would go to the -- I think the next one is, excuse me, the next one would be the land use intensity table that George had suggested changing a couple. Let's see.

BARCA: Still Page 10.

LEE: Still Page 10 he's on, I'm on 24, I'm getting ahead of myself here.

WRISTON: I heard George suggest changing --

MOSS: You're getting anxious.

WRISTON: -- fairways from moderate to high. Was there a second change in there on that table?

VARTANIAN: No, that's the only one.

WRISTON: I think that was just a, right, but he had a change on striking the low intensity buffers on Page 13, 24.b or 1(24)b.

LEE: Yeah, I'll get to that one, but the immediate one would be whether you want to change anything on this table. We've discussed that the intent was to consider -- well, the two areas that were questioned in some of the written testimony we were, the intent was we're talking about the density across the property for the one to five units or one unit per five acres and then the other question do we want to move fairways to the high category or leave it in the moderate category.

WRISTON: Okay. The one unit per five acres you agreed with Lonnie's question though that --

LEE: There seemed to be agreement and that would be -- the way Lonnie was characterizing his concern we were consistent in our intent to try and accomplish that objective.

WRISTON: So it may just be that it needs a clarification maybe. I mean if there's a -- I mean I don't know, I'm just throwing that out.

LEE: We could certainly do that.

WRISTON: I didn't hear any --

DELEISSEGUES: No, I think you're right, Jeff.

WRISTON: I didn't hear any concern over it though. But what about fairways as George suggested that we move fairways from moderate to high, is there any discussion on that or a -- I think just take a -- I do -- that was a -- this has been one that's bounced back and forth I think as

well, hasn't it, on the fairways?

DELEISSEGUES: Well, it depends. You've got fairways that are usually the rough and have down in high, they've got greens and tees and that's usually the more -- on a golf course that's the more manicured I guess and the intensely managed part of the course, fairways are usually left pretty much alone, may be mowed but that's about it.

WRISTON: George, do you want to make a motion to --

VARTANIAN: Well, if, you know, my concern is fertilization and stuff. I mean if they're not fertilizing that --

DELEISSEGUES: No, I don't think so.

LEE: Well, I suspect they probably are fertilized.

ALLEN: They are fertilized, yes. Speaking from prior experience, yes.

WRISTON: Make a motion, George, let's just see how it --

VARTANIAN: I'll make a **MOTION**. Could we move the fairways on Table 40.450.030-5 from the moderate category to the high category.

WRISTON: Is there a second? Second? Okay.

DELEISSEGUES: We don't want to do that.

WRISTON: If there's -- okay, no second the motion dies, I don't think we need to go any further. Pat.

LEE: On Page 13, Line 25, I think it was George's point about dropping the land use intensity only one category so we'd be striking at Line 25 "or low intensity, high intensity buffers may be reduced to moderate intensity buffers."

VARTANIAN: I'm on line -- that's Line 47 unless you're on a different page.

LEE: I'm on Page 13.

VARTANIAN: Yes. Line 47.

WRISTON: No, it was Line 24 and 25.

VARTANIAN: Oh, that Page 13 as opposed to this Draft 13.

LEE: Sorry.

VARTANIAN: Okay. Well, I had one on page -- yeah, I had one on Page 12 also on Line 47, the intensity category, reduce the land intensity category by one category --

LEE: Oh, okay. Yeah, you did mention those two spots.

VARTANIAN: And I think they're both sort of together so.

DELEISSEGUES: Isn't that what the intent was?

LEE: No, because there is the one provision that we did have that did suggest, although we don't know what the figures are and it gets back to the one we were on before, we don't know what the threshold is of impermeability that could drop us two categories as opposed to one category.

DELEISSEGUES: Well, wouldn't that make sense if that were the case?

LEE: I would say if we're going to make the change we should make it in both places.

VARTANIAN: That's what my thinking was.

RUPLEY: Decrease one and increase one, is that what you're saying?

DELEISSEGUES: No, reduce one in both cases.

VARTANIAN: In both cases. I guess -- can I put this in the form of a motion?

WRISTON: You may.

VARTANIAN: I **MOVE**, and I don't know how to say this, but on Page 12 of Draft 13 on Line 47 following the words "intense category" we add "by one category."

WRISTON: Do you want to do the other one too or --

VARTANIAN: Well, okay. And --

BARCA: Separate motion, please.

WRISTON: Separate motion, okay. Okay. That's fine. Second?

BARCA: **Second.**

WRISTON: Any discussion? Is everyone clear on what -- okay. Roll call.

**ROLL CALL VOTE**

BARCA: AYE  
MOSS: NO  
ALLEN: AYE  
RUPLEY: NO  
DELEISSEGUES: NO  
VARTANIAN: AYE  
WRISTON: NO

WRISTON: So that will be sent on to the Commissioners. The motion failed but obviously sent on to the Commissioners so that's good. Okay. The next one, George, why don't you go ahead and --

VARTANIAN: Okay. The **MOTION** on that on Page 13 of Draft 13, Line 25, strike after "moderate" the words or low density, I'm sorry, "low intensity buffers."

WRISTON: Strike "low intensity buffers." Okay.

LEE: Well, you would strike "or low intensity," you still need the (inaudible).

VARTANIAN: Oh, I'm sorry, yeah. I'm new at this.

WRISTON: Okay. Is there a second?

MOSS: Excuse me, for clarification, you wouldn't strike "intensity" at all, would you?

ALLEN: No.

LEE: You're right --

VARTANINA: You're right, I'm sorry.

LEE: -- you would not. But there is one other portion of this depending on how the vote goes you may want to take a look at Sub (b) under that.

BARCA: Actually it would be Sub (a).

LEE: Or Sub (a), yeah, Sub (a).

BARCA: Yeah, which was going to be my discussion.

WRISTON: Taken out. Okay. Is there a second on that?

DELEISSEGUES: I guess I have a question, George, why would you suggest that? What's the purpose of it?

VARTANIAN: Low impact, I'm reading the paragraph, "Low Impact Development Design. High intensity buffers may be reduced to moderate" and if we leave it "or low intensity buffers" to me that's two steps down.

MOSS: Well, it is but there are different criteria to be met.

BARCA: Yeah. That's why I was -- what I was going to bring up is you have to meet (a) to get the low intensity, you have to meet (b) to get the moderate intensity. I mean perhaps you would, you'd flip that just so you'd have the criteria set up that your moderate criteria and then you step down to the low criteria, but it seems like we're offering an opportunity to get less impervious surface with a reward and I kind of liked the incentive aspect of doing that, it starts people thinking about methods of designing in less impervious surface.

VARTANIAN: Okay.

WRISTON: Okay. Well, there's a motion on the floor. I didn't hear a second.

VARTANIAN: Well, do we want to withdraw the motion or --

WRISTON: You may, that's yours to withdraw.

VARTANIAN: All right. Let me **withdraw the motion**.

WRISTON: Withdraw or die.

VARTANIAN: I'll withdraw it any time, man.

WRISTON: The motion's withdrawn.

VARTANIAN: This is a tough crowd.

WRISTON: Do we want to make the -- do you want to flip that though, Ron? Is that what you're suggesting then?

LEE: That's okay, that makes sense.

WRISTON: Yeah, I don't think that's anything we need to talk about. I mean that's not a --

BARCA: That's a walk thing.

WRISTON: Pat, do you have any other?

LEE: The only other one that might be helpful in terms of a read was going to Page 28 under the enforcement in that there was some discussion about the provision on Line 28 where, you know, it's sort of the punitive aspect of if you're violating you could have, you know, permits not be processed for six years so I just wanted a clear read on that.

LOWRY: I think the primary issue there was notice, making sure that a subsequent, a developer for example that was in the (inaudible) was aware that there was a moratorium in effect and my only concern is that it is not clear to me that the County has the ability to simply go out and put a cloud on the title of private property. If we had that ability and we clearly have the ability with under forest practices because the Forest Practices Act requires that we --

MOSS: Record a moratorium.

LOWRY: -- record a document. Here's what I'd recommend that the Planning Commission recommend that we add a requirement to record if the County has the ability to do so.

MOSS: I would so **MOVE**. Thanks, Rich.

WRISTON: Rich, that makes -- did everyone catch that, that makes --

BARCA: If the County has the ability to do so.

MOSS: Yes, have the authority to do so, to put a cloud on the title.

LOWRY: It is generally a crime for you to go and put some document with the auditor that says something about my property where you don't have any interest in my property and I'm just not sure whether the County is exempt from that prohibition.

ALLEN: But I think this was a question of full disclosure for a prospective buyer?

MOSS: Yes. If there's going to be a moratorium placed upon this land there has to be some way for a prospective buyer to be made aware of that.

WRISTON: It needs to be recorded or --

ALLEN: And I have spoken to many community members that were caught in that particular Catch-22 and they did not know when they bought and the realtor did not disclose.

MOSS: Well, this -- but, Rich, I recognize that you have a good point, the County may not have the authority to do that and so the motion should have that caveat that if the County has the authority to do so.

WRISTON: What I'm hearing is, one, if the County has the authority, and, two, so far I've heard that we'd like to have some sort of either recording or some sort of notice provision on moratorium if we were going to do that?

MOSS: Yes.

LOWRY: Recording really is the only way.

WRISTON: Right, and that is the only way as far as that so.

MOSS: Somehow it should show up in the title report.

WRISTON: Is there a motion to that effect?

MOSS: Yes, I made one.

WRISTON: Okay. Is there a second?

DELEISSEGUES: **Second.**

ALLEN: I **second.**

VARTANIAN: You got to say it.

ALLEN: I second.

WRISTON: All right. Roll call.

MOSS: I think I'll vote against it. No, I won't. AYE

VARTANIAN: Just joking.

### **ROLL CALL VOTE**

BARCA:	AYE
ALLEN:	AYE
VARTANIAN:	AYE
RUPLEY:	AYE
DELEISSEGUES:	AYE
WRISTON:	AYE

WRISTON: Okay. Pat, did you have anything else?

LEE: No.

VARTANIAN: Now we need to make a motion for the whole ordinance now.

WRISTON: Yeah. No. No, I just wanted to make sure that was it and then what I would suggest is what I need now is a motion for the ordinance with these aside, just a general motion for the ordinance.

DELEISSEGUES: I'd be glad to make a **MOTION** that we recommend approval to the Board of County Commissioners that the County Planning Commission approves or recommends approval of the wetlands protection ordinance Draft Number 13 with consideration of the several concerns expressed.

RUPLEY: I'll **second**.

WRISTON: Okay, Jada seconds.

VARTANIAN: Well said. Second.

WRISTON: Very good.

LOWRY: And.

RUPLEY: And what?

LOWRY: And the conforming amendments.

WRISTON: And thank you, and the amendatory changes that -- does that include that?

DELEISSEGUES: So included.

WRISTON: Second includes?

RUPLEY: Yes.

**ROLL CALL VOTE**

VARTANIAN: AYE

ALLEN: AYE

BARCA: AYE

MOSS: AYE

RUPLEY: AYE

DELEISSEGUES: AYE

WRISTON: AYE



WRISTON: Motion carries, we'll pass it on to the Commissioners with a recommendation amendatory changes and subject to our ancillary discussions and motions.

RUPLEY: You can wake up now, Brent.

WRISTON: All right. That was a good job, that's a tough one to tackle.

VARTANIAN: We're almost done.

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**, continued

B. **BIANNUAL CODE AMENDMENTS:** Clark County is proposing several code amendments as follows: - **CONTINUED ITEM FROM HEARING OF 2/16/06**

WRISTON: Biannual code changes. I think we've been going for about an hour now so we can keep going. Pat, do you want to present the staff report on that, please.

LEE: Would I, I can present a very brief staff report.

WRISTON: And then a suggestion on how you'd like to. Do you want to take them one at a time or --

LEE: I think as I said in the staff report I think there is not a lot of policy implications to most of these changes. I don't know that it is necessary to go through each one individually unless there are specific concerns that the Commissioners have. I know that at least one person has been waiting for months to testify on this and you might want to ask the witness to come forward first off to hear what her concern is.

WRISTON: That was like the best and the briefest staff report I think we've ever had. All right. Public testimony.

MOSS: Well, you have stamina, Meridee.

**PUBLIC TESTIMONY**

PABST: Yeah. Meridee Pabst, 500 East Broadway, Suite 400 in Vancouver. And we're testifying in favor of change Number 12 which is the accessory residence to go along with mini storage warehouse facilities. And this has been a real problem for some of our clients, it came up again last Summer, and we're very glad to see it on the list and we ask that you recommend approval of this change. It makes a lot of sense and it's consistent with the industry standard and if anything it could potentially mitigate the impacts to the surrounding property because it allows for a 24-hour

presence on the property to protect it.

WRISTON: Okay. Any questions of Meridee?

PABST: Thank you very much.

DELEISSEGUES: I just have a comment here.

VARTANIAN: That's it.

DELEISSEGUES: I think you should get an accommodation for waiting as long as you did to make that recommendation.

PABST: Oh, well, I enjoyed your discussion actually.

VARTANIAN: And if you'd like, if you'd like the Planning Commission, we'll send a document to your client recommending --

RUPLEY: Actually we think you need a bonus --

PABST: Well, thank you.

RUPLEY: -- so why don't you go back and tell them that.

WRISTON: Milada, did you have a question?

ALLEN: Yes, I do. The caretaker units with the mini storage uses, what does it exactly mean? Does it mean that you can have mini storage within the caretaker unit or you can have a caretaker unit plus a mini storage unit?

PABST: The primary use is required to be the mini storage facility and then the accessory dwelling typically goes with the office. So the office might be on the ground level and then a --

ALLEN: So could it be changed to saying allow caretaker units as accessory to mini storage uses?

PABST: I believe so.

DELEISSEGUES: Actually it's spelled out.

LEE: I think it already says that, doesn't it?

PABST: I believe it does.

DELEISSEGUES: It's spelled out on Page 16.

ALLEN: Where? Oh, I'm looking at something else, the biannual code amendments.

DELEISSEGUES: It says i., accessory caretaker. I mean the caretaker unit is the accessory unit.

PABST: Yep, the first word is accessory, yes, and it has to be an integral part of the facility.

ALLEN: Okay. Thank you.

PABST: Thank you.

WRISTON: Milada, there you go.

RUPLEY: I have a question.

LEE: Yes.

RUPLEY: On Number 9, no, that's not the one. Where's the one on sprinkling? Okay. 4, automatic fire alarms in buildings in excess of 5,000 feet. So if it is 5,000 feet would you have to sprinkle or would you not have to sprinkle?

LEE: It would be a good point of clarification.

DELEISSEGUES: You wouldn't have to according to this.

LEE: I would, I would say this is basically the wording that comes from the Fire Marshal so I would suspect that if it's 5,000 or more, it should have sprinklers or the alarm system.

BARCA: So 4,999 --

RUPLEY: Would be the size of our next facility.

BARCA: -- you're cool.

RUPLEY: I just went -- I mean that's just a question if 5,000 is the typical.

LEE: No. It's actually one of our other biannual code amendments clarifies the variances to up to and including 10 percent up to and including 25 percent because it is one of those things.

WRISTON: Yeah. Jada, you're saying 5,000 is a typical portable?

RUPLEY: Uh-huh, for what we do for child-care and I want to make sure we're under the --

WRISTON: The way it reads right now in excess of 5,000, if we left it alone I think you're fine. If he changes it --

RUPLEY: Yeah, if he changes it --

WRISTON: -- to 5,000 or more so we'll -- I mean --

RUPLEY: I'm okay with you leaving it the way it is, Pat.

WRISTON: Leave it the way --

LEE: Okay. Very good.

VARTANIAN: Don't you want to have fire protection, though?

RUPLEY: Well, yes, we --

WRISTON: Not in portables.

VARTANIAN: Why not, there are people in there?

WRISTON: Yeah, they're tough.

ALLEN: On Page 6, Item 8, items requiring separate permits such as fire sprinkler systems are not charged additionally, wouldn't that have to be -- that particular portion have to be by the fire district so maybe there will be an additional charge from them?

LEE: I believe this is getting at the issue of building permit reviews actually and there's a separate fee that's already charged for those things so they would have to be paid anyway so we're not going to be charging twice.

ALLEN: Okay. Thank you. And then on Page 9 it said floating structures and bridges, Item 3.

LEE: Yes.

ALLEN: What are we talking about? Boats? Boat docks?

LEE: That could be a floating structure, yes.

DELEISSEGUES: Yeah, like in a marina.

ALLEN: So this is carte blanche for all floating structures and bridges?

LEE: Let me check the wording here to make sure I can characterize it correctly.

ALLEN: Actually that's also --

LEE: Permits shall not be required for floating structures and bridges so that is an additional.

ALLEN: Because you could build a floating structure that's pretty substantial.

LEE: That's in our current, that's in our current building code, that exemption is in our current building code. Basically what this whole amendment does is everything that you see that is stricken is a duplicate of what's in the International Building Code so it just pops out what the true exceptions are as opposed to repeating, but it's a legislative matter and you have the right to vote on it and I cannot offer great insight into the number of floating structures and bridges that we're permitting.

ALLEN: Or the size?

LEE: Or their size, that's true. I would say, you know, if you're looking at a floating structure on a river ware or something, it would probably come under the jurisdiction of the Shoreline Management Act among other things.

ALLEN: Then on Page 10 --

WRISTON: I guarantee it does.

ALLEN: Then on Page 10 under the Code Citation 7 it was changed from short plat means a division or a redivision of land into four and it was changed to read nine.

LEE: The rationale was there's a change in State subdivision law that defined short plats being up to nine units and we're just being consistent with that.

ALLEN: Okay. Thank you.

VARTANIAN: I have a bit of a concern with that, and this is probably not the place to address it but I'll say it anyway, short plats mean it's a Type II review --

MOSS: Right.

VARTANIAN: -- and I've always had a problem with Type II reviews going for short plats automatically as you know.

LEE: Yes, I remember some public comments.

VARTANIAN: Because, yeah, because, you know, to say there's four lots or three lots they could be 900 acres each, that doesn't say that they should still be covered by a Type II and now going

to nine just makes the problem that much worse, so a bit of an editorial comment.

ALLEN: But it's State law.

MOSS: I'm not sure I understand your concern about the size, George.

VARTANIAN: Well, if you're going to have a Type -- well, it's not on this particular subject, we can talk about this later, but I guess my point is that the review, a Type II review, goes with a short plat which is up until now four lots and any more than four lots used to be a Type III, or it could be depending on the situation would be a Type III, and you could have a Type III be of less acreage in total than a Type II simply because of the number of lots involved is smaller than the Type II application.

MOSS: Well, you could but --

VARTANIAN: Well, I guess what I'm saying is you could put a Wal-Mart on one and not on the other.

MOSS: The number of dwelling units, that's probably more of a concern.

VARTANIAN: I'm sorry?

MOSS: You could but it's probably the number of dwelling units is probably a bigger concern as to determining the impacts than the size of the lots.

VARTANIAN: Well, I'm not so much thinking about residential uses as much as I am commercial use. You can get a very large store on one lot that's a lot of acres.

MOSS: Well, obviously you could but this is only a land division, this isn't site plan review.

VARTANIAN: Well, that's why I'm saying I'm not sure this is the place to address what I'm talking about. And my only other one is a big item here, flags. The County code doesn't describe what a flag is and I -- a nice bunch of guys and I subscribe, I'd hate to see a cell tower with a Verizon flag on it. Can we just say U.S. or State flag?

ALLEN: And I had the same concern.

VARTANIAN: I'm not talking about an advertisement here. A flag to me is --

LEE: I think the concern is noted that that's something I really have to, Rich, Rich is going through his treatment so he left, but that's really there has -- I need a legal opinion on whether we can restrict it to just State and, you know, U.S. flags or something like that. I think that is --

VARTANIAN: I think that's the intent but it doesn't say that.

LEE: That is the desired outcome, but whether we can regulate it that specifically I am not sure.

DELEISSEGUES: There's a lot of other kind of flags that people would like to display.

VARTANIAN: Oh, yeah, lots.

LEE: And perhaps we might define those as banners, I don't know.

RUPLEY: We might notice that we have three up right up here and so.

DELEISSEGUES: Clark County flag --

RUPLEY: City flag.

DELEISSEGUES: -- the Boy Scouts.

VARTANIAN: I guess, you know, I would be -- I'm not saying it has to be U.S. or it has to be State or something, but I would not like to see personally advertisements up there unless they're --

DELEISSEGUES: Freedom of expression.

VARTANIAN: -- public service announcements of some sort or other.

WRISTON: I'd like to see the University of Michigan be in there.

VARTANIAN: There you go.

BARCA: As an exemption or a prohibition?

RUPLEY: I was just going to say Hockinson High School could have their flag up there.

WRISTON: No. I think the point, the point is well taken. I think that's one, well, I know for sure that's one that the Commissioners are going to be working on anyway so.

DELEISSEGUES: I've got some questions, Pat, on Page 18. It says at the bottom "three or more dismantled, obsolete or inoperable motor vehicles on one lot shall constitute an automotive recyclable materials facility," what if it's a shop? I mean Hockinson Motors they've got inoperable vehicles that stay there for a week until they can get to them for sometimes and that's kind of vague to me.

LEE: It's --

DELEISSEGUES: I know what the intent is.

LEE: Yes. The intent is to provide some enforcement for leaving a lot of derelict vehicles around, not those that are being actively serviced.

DELEISSEGUES: Right. Right. Anyway, that looks like it could be a conflict if you interpret it literally. And then on Page 20 down at the very bottom, on-premises freestanding, it says "one per street frontage with 50-square feet minimum spacing," I think it should just say 50 feet probably.

LEE: Where were you again now, Dick?

DELEISSEGUES: The second block from left to right on the --

LEE: With 50-square feet minimum spacing between signs.

DELEISSEGUES: It's just 50 feet lineal, not area.

LEE: Okay.

DELEISSEGUES: Other than that I think you did a perfect job. Well, I mentioned this before on Page 21 about these electronic message centers, there's a lot of them around already, they're illuminated, they're backlit illumination and they're at all kinds of, you know, a fire station for example we've had one in Fire District 3 there in Hockinson for quite a while.

RUPLEY: You illegal guy you.

DELEISSEGUES: Probably.

RUPLEY: Can we fine him.

WRISTON: Is this, are we saying that only high schools can have electronic --

LEE: That is what the amendment is saying in terms of limiting it in these additional. I mean you could have -- in commercial areas you can have electronic messaging centers so because high schools can be in a variety of zoning districts we have to go through and amend this to allow specifically. And what raised this was the Hockinson High School proposal and I will call your attention that the one written comment that we did receive on the biannual codes from a Timothy Podhora was suggesting that the 25-square foot limitation may be too small for high schools. I mean the Hockinson High School is less than that but he was suggesting that a larger might be considered.

DELEISSEGUES: The Hockinson primary and elementary school up on 164th also has an illuminated sign and it's not a high school, it's a primary school.



LEE: It might be in a zoning district where it's already allowed.

DELEISSEGUES: Well, I'd just make a pitch that maybe it ought to be public buildings or something more than just a high school for public purpose.

RUPLEY: That would take care of the fire district. That would take care of them.

DELEISSEGUES: Right.

LEE: That's fine.

WRISTON: Okay. Any other --

BARCA: Well, I guess even though I didn't even pay attention to this before we're saying that only in single-family residential districts may high schools have the electronic message center?

LEE: No. This same amendment ripples through single-family districts, residential mixed use, employment, university and rural and resource districts, so because school sites are in all districts we needed to adjust several tables.

BARCA: So the aspect of it because it says high school electronic message as the sign type, that doesn't preclude other electronic message boards or does it?

LEE: The intent was to narrowly define in these additional categories that an electronic message center could be allowed on a high school only. That is the intent.

BARCA: Okay. So then I guess the point that Dick is, was, making is actually quite prevalent, that there are many facilities that have electronic message type boards out that are currently in use and they're not going to all be high schools, so it does seem that we have been too narrow in the focus.

LEE: Well, presumably if they're up on other uses at this point, they're in zoning districts where that's an allowed use.

BARCA: Presumably.

LEE: Presumably, yes.

BARCA: And should we find that that's not the case after we do this, then in essence we're telling them that they'll have to come down?

LEE: There could be an enforcement action if it's not an allowed use in the district, yes.

WRISTON: But there could be today?

LEE: There could be --

WRISTON: I mean, but, I mean, we're not changing that today, this just is allowing schools. So those message boards are nonconforming today, we're just saying, okay, schools, we're going to allow you, and obviously this comes up like you said from one particular problem, but if there's another, if there's a building that has it in a residential district or something that's not allowed, we're not changing that today, it still would be code enforcement?

LEE: Right. I was thinking that I think both and if I'm not mistaken I think both Ron and Dick were suggesting maybe we ought to broaden it to some other uses, other public uses typically.

RUPLEY: Public uses.

BARCA: Yeah, while we have this opportunity let's not skip over it and act as if everything's already in conformity.

WRISTON: Do you have specific suggestions on --

BARCA: I thought Dick's wording of public facilities was adequate.

WRISTON: Okay.

RUPLEY: You don't have any testimony from the Hockinson School District, you just only have it from that Mr. Podhora?

LEE: Well, yes.

RUPLEY: Because Maggie Bates from Hockinson was here the last time with testimony I thought.

LEE: She may have been. I mean clearly both support groups for the school and the school personnel have been anxious to see this amendment proceed.

DELEISSEGUES: I think you might consider adding churches too because I know almost every church I can think of has got an illuminated message board out in front of it.

RUPLEY: Can they go across all zoning too?

LEE: A conditional use, yes.

WRISTON: Okay. Any other comments or changes?

MOSS: Yeah, I have one. The division on planned unit developments on Pages 15 and 16 I'm

kind of confused by that and what its applicability would be.

DELEISSEGUES: Where is it, Lonnie?

WRISTON: Page 15 and 16.

MOSS: Page 15 and 16. There's the intent of the change is to make planned unit developments consistent with subdivisions but I'm not sure that we're really doing that.

LEE: The intent I think is to clarify that in terms of density transfer provisions that the two are treated consistently, a PUD and a normal subdivision, and current subdivisions do not allow a transfer of density from utility transmission lines such as Bonneville Power, et cetera, because they are taken out of the buildable lands inventory from the start.

MOSS: Well, some are, some are not, it depends on whether it's an easement or, you know, are these -- there are transmission lines that don't amount to the big towers that we're normally talking about that are true easements and are not owned in fee and there's nothing wrong with including those in the lots, that's typically what happens, and certainly in the R1-5 and R1-6 zoning districts without using the provisions of density transfer, you can currently include the area in the lots and since an R1-5 and R1-6 you can average lot sizes, you don't lose any density at all.

But if you -- but the way that this is being written, if you decided to go for a Planned Unit Development in lieu of that you couldn't count any of this area, it would not be treating subdivisions and planned unit developments the same way. I have no concern whether the BPA actually owns something in fee that couldn't be subdivided anyway, but I'm really wondering what the intent of this is. We have a number of these where the BPA or other utilities merely hold an easement, that the underlying fee is owned by the landowner, and oftentimes it seems to me that there are very good uses that that land could be put to to make, you know, to make multiple use of that land and it seems like open space in planned unit developments is one of those, they're good opportunities to do that, I've seen on numerous developments and I'm wondering why we want to preclude that. I'm wondering if we shouldn't go the other way, I mean, if it's consistency.

LEE: I can give you the background on this is that there was a Type III decision that was appealed to the Board of County Commissioners and there was great uncertainty about how to interpret this provision as it relates to PUD. Staff's recommendation at that time was not to allow the transfer because that is how they applied the density transfer provisions for those types of lands in subdivisions and I believe that that may have been supported by the Hearings Examiner, it may have been appealed to the Board then and the Board said in this case we will allow the density transfer in the PUD; however, we definitely think we need to go ahead and clarify whichever way we're going to go.

MOSS: Yeah. I'm, okay, I'm a little concerned that, and I should have checked the language in planned unit developments but I didn't think that the term "density transfer" actually appears in the Planned Unit Development code, that there's a -- and I'm wondering what the effect of this is if it

doesn't. I may not be right there, but I think the Planned Unit Development code really talks in terms of overall density, there really isn't a section in there as I recall that relates to transfer of density.

WRISTON: Go ahead, Pat, you're looking something up?

LEE: Yes.

WRISTON: Dick, did you, Dick, you had a question while Pat was looking something up?

DELEISSEGUES: Well, just on that same page, on the bottom of Page 15, it talks about lot requirements set out in Table 40.220.010-4 and the table's actually dash 2 so no biggy.

MOSS: Well, another scrivener's error.

DELEISSEGUES: Real technical expertise here.

MOSS: We'll be changing it next year.

ALLEN: Yeah, we'll be changing it next time.

LEE: I didn't, I was distracted.

WRISTON: I wrote it down. He's just saying there's a typo on the bottom of Page 15 on the table.

DELEISSEGUES: Well, either that or the 14 table on top.

WRISTON: Yeah, or one.

DELEISSEGUES: One says dash 4 and the other one says dash 2.

LEE: Okay, I see.

DELEISSEGUES: Now where are we?

WRISTON: I think Pat's looking something up so. Is this something that can be figured out after or is it something that --

BARCA: Can we take a break?

WRISTON: Or do you want to take a -- do you want to take a ten-minute break?

LEE: Sure, that would probably be good.

WRISTON: And then you and Lonnie can talk about it a little bit. Why don't we go ahead and take a ten-minute break and get back and I think we're pretty close to winding it up.

(Pause in proceedings.)

WRISTON: Okay. Call the Planning Commission back to order here. We left off on the Page 15 and 16, density transfer issue and the planned unit developments. Pat or Lonnie, did we figure anything out?

MOSS: I think so. This is an attempt to make the language consistent between subdivisions and planned unit developments and while that's admirable I think what we're doing is probably adding to a bad decision that was made here a couple of years ago. I think the history of this if I recall it, and Pat maybe will be able to fill in a little bit, is there was some feeling that these BPA power lines, transmission lines, were encumbrances on the land that the landowners have already been compensated for and that may have initiated this in that they -- the feeling was that landowners shouldn't get to double dip here somehow.

First I'd like to say that I think that's irrelevant to good land use planning, I don't think that's anybody's business, and in fact I think in many cases that's absolutely wrong anyway. First, those people that were compensated the best were those who resisted giving easements and forced BPA to condemn their land and they got full market value for it, there are many landowners who gave an easement, retained the underlying fee title and did so for almost no money at all, in many cases that I can think of it was \$1 that changed hands. I don't think compensation or who got compensated for what is any of our concern here in any event, I think we ought to be talking about planning.

But in this case those folks who were compensated the best, the ones who went through condemnation, lost their fee title to their land. The landowner can't use that for density transfer in any event because they don't own it. It's only those people who just gave an easement that would be affected by this. But I guess we need to take another look or somebody needs to take another look at this because what this does is it tries to apply to planned unit developments the same provisions on density transfer that are applied to subdivisions when in fact there's no language about density transfer in the Planned Unit Development ordinance at all right now so it wouldn't be appropriate to insert this language, it would have no force and effect and no meaning. So I would recommend on this one that we consider a motion at some time tonight to send this one back for a little further thought and I would extend that recommendation to rethinking the decision regarding density transfer on subdivisions.

WRISTON: Okay. Any comments on that or any other changes or questions or comments on any of the rest of the changes?

DELEISSEGUES: I've got one. On Page 25 under H at the top "exemptions from concurrency requirements" it has K-12 public schools, I wondered about colleges like WSU or Clark College or any work that they might be doing out there. I know the campus is expanding at WSU. I

wondered if that was considered?

LEE: WSU has an allocation in the concurrency model that encompasses plans for future growth.

WRISTON: Do you still -- I guess that's, that handles WSU, it doesn't necessarily handle Clark College, it doesn't handle any other form of higher education but --

ALLEN: Well, Clark College is within the city; right?

WRISTON: But I mean, you know, just --

LEE: I believe most of their facilities are within the city of Vancouver, yeah, and they had looked at one out in the -- near Camas but they decided to go separate ways from the Evergreen School District on that one.

VARTANIAN: Isn't there going to be some classrooms out at WSU from Clark College? Wasn't there going to be some arrangement going on and if that happens does WSU's reserved trips then gets split to those guys too or --

LEE: The latest information I hear regarding WSU and the whole discussion of concurrency up in the Salmon Creek area is that they are satisfied with their current allocation, they don't feel they need to press that issue anymore at the moment.

VARTANIAN: No, I understand. But as far as the issue of Clark College is concerned, if they take classes up to WSU doesn't that affect the concurrency in the area because WSU's vested trips are for WSU's purposes?

LEE: Well, it's --

VARTANIAN: No.

LEE: -- it might be related to the various facilities --

VARTANIAN: That may be a moot point though.

LEE: -- at the campus as opposed to the specific institution issuing the degree.

BARCA: So many acres and so much facility available and if they choose to partner up with anybody, that's WSU's still administration.

VARTANIAN: Okay.

ALLEN: Yeah, its downtown campus.

WRISTON: Okay. Any other changes?

DELEISSEGUES: Page 27 I had a question on the table, I got all kinds of questions. Under the table for application submittal requirements there's an X there under 9(c) and I just wondered if that should be there, what it implies, because it could imply that all of the part under (c) applies, but then on the next column they're all X'd so I wondered if that just is a typo?

LEE: It's a long table and I cut and pasted it probably so there is a, you know, a 9(a),(b) and (c) the (3) is sub to (c) so the X does apply to proposed improvements.

WRISTON: Does?

LEE: Yeah.

WRISTON: Okay. So that's where it belongs there.

BARCA: Really? Really?

LEE: I mean there's a long list of proposed improvements, landscaping for example is one of them.

WRISTON: He didn't put all the --

LEE: I didn't put the entire table --

WRISTON: -- put the whole table.

LEE: -- because it took several pages and actually the only change that's being contemplated is on the next page of the table.

BARCA: Is (h)?

LEE: Yes.

DELEISSEGUES: And then the other question was on the bottom of Page 28 it talks about installation of required landscaping, and it's on 29(3)(a), "landscaping shall be installed" but it doesn't say anything about a maintenance plan or any kind of --

LEE: I think what it's relating to was a change in that was made previously in the final review processes where instead of the County reviewing the landscape plan for completeness the requirement was changed so that we simply receive a verification from the installer that they have met the condition, so it accurately reflects kind of the regulatory role we have in that at this point.

DELEISSEGUES: There's no concern about maintaining the landscaping for any length of time

then?

LEE: I believe there are provisions in the landscape requirements that do indicate the need to replace within a certain period of time if some of the landscaping does not survive.

DELEISSEGUES: Okay, that's it.

RUPLEY: Yeah, I wasn't going to ask any more questions, but solar access is no longer regulated by the County, what does that mean?

LEE: We at one time actually had solar access regulations and they were repealed, oh, I don't know, eight years ago or so.

ALLEN: Eight years ago, yes.

MOSS: About '96 or so.

LEE: Yeah.

ALLEN: Yeah. And hopefully there's going to be some notation --

BARCA: What an outrage.

ALLEN: -- on my map when I saw that as the owner, the map of the county that says that it was repealed so they don't hold me responsible for that solar easement I have on my property. I did have a question on Page 28 where it talks about final site plans and it does say that Number (4) will be the boundary survey but I didn't see anything about a legal lot boundaries mapped on that because sometimes the boundaries are really just for the area that's to be developed but there's also maybe a different configuration for legal lots so sometimes you can have a lot line adjustment because of it. It's on this one here on Page 28, Code Citation 22.

LEE: Okay. I can --

ALLEN: That would be good for purposes of, you know, I mean you don't want to put a building right in the middle of two legal lots, on a line between two legal lots.

LEE: The final site plan, final construction plan has always been a source of confusing, confusion for folks and you have the site plan approved with the various conditions of approval associated with that, that is called a preliminary site plan, and then here you're actually doing the --

ALLEN: Final.

LEE: -- review of the final construction plans before issuing the permits. So I suspect that whatever the lot lines and things that were identified would be implicitly incorporated here, but



certainly we could add --

MOSS: Well, you have the lot, block and --

ALLEN: Legal lot determination.

LEE: A lot, block that's --

MOSS: -- street right-of-way and centerline dimensions here so.

LEE: Right. Yeah.

MOSS: So they have to be depicted.

LEE: Yes.

ALLEN: And on Page 21 under that high school electronic board we were talking about 5-by-5 is such a small area you probably couldn't put the school's name on there without having to break it up.

LEE: That was -- like I said, that was a comment, that one written comment we did, suggested that perhaps a higher size might be appropriate but that's --

BARCA: So are you taking it on yourself or do we have to make a recommendation?

RUPLEY: I'd like to recommend his 60-square feet. Do you want to go ahead and do that?

LEE: What Mr. Podhora had recommended was 60-square feet. I think, you know, if you want to. I don't have a staff recommendation on what the appropriate size is other than what was put forward necessary to accommodate the issue that generated this amendment, so we're pretty neutral on the size at this point.

WRISTON: Okay. Let's get through the rest of it and we can include something in a motion. Any other -- anyone else have any other comments or changes? No?

BARCA: Well, look, we just got through the rest of it.

WRISTON: We did. Do you want to go 60? Well, let's -- there were several different comments. I assume we're leaving just to clarification for the whoever makes a motion that this thing about in excess of 5,000-square feet for fire systems we'll leave the language as is --

RUPLEY: That's fine.

WRISTON: -- or at least that was thrown out there.

RUPLEY: No, it's fine.

WRISTON: Page 15 there's the issue of, and I don't know, Pat, how do you want to, do you want to take these separately too? I mean there are not that many of them, we could take them separately or just someone can try to include them all in a motion?

LEE: Why don't we just run through quickly. And I don't know if we have to, I'm not thinking there's a lot of disagreement here.

WRISTON: No. There's the issue that Lonnie had on Page 15 on that it's just not consistent and I agree on the density transfer that it needs to go back to the drawing board because they're -- planned unit developments don't provide for that. I think there's also the issue, and I don't know what Lonnie wants to do with it, about whether or not easements should be included in lot density transfers and open space and the like, but I'm not sure if you want to deal with that tonight, if you were suggesting we deal with that tonight, Lonnie, or just something that --

LEE: You were suggesting that some recommendation that staff investigate that issue once again?

MOSS: I think so. And to reiterate what I said before, you know, in particularly in the R1-5 and R1-6 zoning districts where you can use lot size averaging that these easements if they're in fee ownership is part of the property that's being developed that whole easement could be included in one of the lots, and that's current practice, and so the rest of the lots maybe could be as small as 4,000-square feet and the average comes out 6,000. So, you know, this, it isn't necessary to use density transfer at all to account for those and yet we're saying if you do want to use density transfer, if you want to stay out of that area, then you can't do so. I'm not sure what it is that -- what purpose I guess it is that we're chasing here with this.

LEE: No. I think, you know, again there's not, there's not a great record of sort of the past action and, but I think, you know, what I could find in the record of the prior code amendments was probably consistent with what your analysis was, it's probably related to the double dipping question as much as anything.

MOSS: And I'll say again I don't think that's appropriate for this Board to be making a judgment based upon whether a landowner got compensated for anything, you know, that isn't what we're about.

VARTANIAN: How about the cluster ordinance, would that be planned?

WRISTON: Okay. And that's probably the most --

MOSS: That's only rural.

WRISTON: -- meaty of the ones and probably the only one I would suggest. We'll keep going through then, maybe we take a separate motion on just to get the Board's feel, but I think, Milada, you're okay now with on the accessory --

MOSS: Yeah.

WRISTON: -- on the mini storage?

ALLEN: Yes. Yes.

WRISTON: Dick, on Page 18 you had the question of a shop on the three or more dismantled, obsolete or inoperable motor vehicles, is that just a point of clarification to be --

LEE: I took it as a comment. That's what the current, there was no change to that section of the code that's being proposed other than the letter.

WRISTON: Page 20, changing lineal square to lineal, just typo I think. The electronic message center, does someone want to throw out a size?

VARTANIAN: 60-square feet.

WRISTON: 60-square feet. Okay.

RUPLEY: Do we want to do all public facilities?

WRISTON: I heard public facilities and churches. Okay. All right. Well, just again hopefully someone will say -- I mean hopefully someone keeps track of this for motion purposes. There was the flag pole issue which again I think my suggestion would be we just maybe leave it alone because I know that's going to be an issue with the Commissioners because it's, it was even mentioned tonight that they're looking at that, that's with the cell tower and unless someone feels strongly on that. And then I think that's, I think that's -- did I miss anything? I think that's it. Okay. So the only one I think that would help to get a feel for is two motions, one to adopt those and the changes and then a separate motion on this Planned Unit Development issue.

LEE: Also we might want to -- it would be helpful if we're going to broaden the language on the electronic message center that we take a vote on that too I think.

BARCA: Separate vote?

WRISTON: Separate or --

LEE: Yeah.

WRISTON: -- include it in the motion?

LEE: Or unless there's a consensus to include it in the motion.

WRISTON: I think there's a -- it feels like there's at least enough to carry it included on the motion.

BARCA: Well, does anybody have an objection in that regard so we know whether we need more discussion on it?

DELEISSEGUES: No, I think we could put them all in **one motion**.

MOSS: No immediate concern comes to mind. I don't know if we've thought this through well enough to do we want every public building to be able to have this no matter where the -- what the location is?

LEE: That's the concern while it was, you know, while there's limitations on locations of these.

VARTANIAN: Is there --

MOSS: We wouldn't allow something similar for private installations, is it appropriate here that --

LEE: I mean they're basically allowed in commercial districts at this point in time and, but not in a residential district and I think the difficult part about facilities and in such as schools or other public buildings or churches they can be right in the middle of a residential neighborhood and there could be some residents concerned about the distraction that the message center causes them.

MOSS: It's hard for me to imagine right now that this is really going to be an egregious problem but I just wonder if we've thought about it enough to --

RUPLEY: Well, and I started to say that maybe it is those facilities that are permitted by conditional use in other than a commercial area. Would that include everybody, then, we were just talking about?

LEE: That and a whole lot more.

RUPLEY: Oh, okay. Oh, then I've broadened it too far. Okay.

WRISTON: I'll throw out one --

MOSS: Yeah, it would.

RUPLEY: Okay, never mind.

ALLEN: In the residential area maybe you want to consider to lower the height to where it's less

visible, there is a smaller profile, as you're driving by versus having a 20-foot sore thumb.

LEE: I guess my personal opinion would be that the size of the sign is more important than the height of the sign in terms of the complaints that the County would likely receive from those that were not pleased with it.

ALLEN: So would you think that 45 --

MOSS: Well, one of the advantages -- excuse me, go ahead.

ALLEN: Would you think that a 45 or a 50 foot would be a better size for that particular because 5-by-5 is really too small?

LEE: I will confess that 60 seems a little bit large.

ALLEN: So 45 maybe to 50; right?

LEE: Okay.

ALLEN: Most other jurisdictions that I have seen, that I've seen in a residential area would limit it to 50 but I don't know what, you know.

RUPLEY: 60 probably because Hockinson is such a long word.

LEE: Their's is 24 feet and 11 inches or something like that.

RUPLEY: Is it?

VARTANIAN: Is there a consideration for the light being emitted?

DELESSEGUES: Just use smaller letters.

VARTANIAN: I mean I can see a situation -- I mean we go to great lengths shielding neighborhoods from parking lot lights, but if you're right next door to the church and it's 4:00 in the morning and they've got an early mass or a late dinner or whatever.

ALLEN: Especially when it's 20 foot up in the air and beaming right into your bedroom.

VARTANIAN: What does Taboo do? Never mind.

WRISTON: Well, you know, it sounds like we had more discussion than we thought on it. You know, I think, Dick, we started going down this road because Dick mentioned that the fire districts and to me it does make sense because the fire for purposes of emergency facilities, and I don't know how you'd clarify that, but like I was just asking Dick what you use them for and he says,

hey, we use them for no burning, you know, I mean fire district, fire stations are located in residential neighborhoods but they notify you, no burning, I could see an emergency, you know, a 9-1-1 center or the fire department on some kind of an alert of some sort using them to notify people.

DELEISSEGUES: I can tell you if they don't like the sign they won't like the sirens at 2:00 in the morning.

LEE: We get complaints about those.

WRISTON: I mean maybe for purposes tonight just to move it on that, you know, we can recommend that schools be allowed to have them and maybe fire. And I mean I don't know how you, but fire and other --

LEE: That is something certainly I could do, I'm in the process, I think I've got two more sets of biannual code amendments that are in the queue at this point and we could probably work through some of these issues a little more through some of those.

WRISTON: And bring it back because I'd be concerned, I mean I'll tell you if -- I mean a church next door to me I guess if I think about it and then they -- because they'll just -- they leave them on all night, it's not like they'll just -- I mean they'll just, they'll --

DELEISSEGUES: But they don't have to.

WRISTON: They don't have to but --

ALLEN: They do.

VARTANIAN: Plus there's some zones that already have signing ordinances, sign requirements or disallowances in them.

WRISTON: Right. So rather than trying to structure all this tonight, if you guys agree, and maybe it's just something let's just move this forward with schools and maybe some form of language so the fire districts and all can also be allowed and have it come back to us at some later date if it becomes an issue.

VARTANIAN: Well, can I -- just I'm sorry to beat this more than it needs to be, but I mean what if a school is in a zone that doesn't permit heights of signs over ten feet?

DELEISSEGUES: Unless otherwise --

MOSS: This would override that.

VARTANIAN: Well, that's, yeah.

WRISTON: Probably a question for Rich, I think it's over -- I think this would override it you're saying, Lonnie? I'm not sure that it would. I don't know.

DELEISSEGUES: Couldn't you just say --

LEE: This is the standards resulting to signs so.

WRISTON: So it probably would then.

LEE: Yeah.

ALLEN: Yes.

VARTANIAN: Well, there's a misuse ordinance in the process these days that have some specific language in there about signs and the kinds of signs and where they need to be.

WRISTON: Okay. Well, I guess my suggestion would be not to over-think this too much in terms of -- I mean I think this would probably override that but --

BARCA: We could under-think it for a long time.

WRISTON: Yeah.

RUPLEY: Over-talk it.

WRISTON: I think in zones that have those height restrictions or something, I mean you can look at that and point it out as an issue to the Commissioners and they can try to crank through it but --

RUPLEY: Bring it back.

ALLEN: What about that maximum area size?

WRISTON: That's up to you. I heard 60 feet but then I heard it cut down to maybe 40 or 50 feet, square feet.

VARTANIAN: Why don't we just leave that alone until it's all --

BARCA: If we're not going to deal with the specifics on the facilities determining what size the sign is doesn't seem to make much sense either.

WRISTON: I just -- I agree that -- maybe recommend that --

BARCA: This is too thorny of an issue for the Planning Commission, perhaps we shouldn't get

into it.

WRISTON: Well, the other thing is we're kind of pulling it out of midair and maybe you, staff again, can look at what is an appropriate size that works for schools and the facilities and we don't know, you don't know, we don't know yet so.

RUPLEY: We'll leave it to the experts.

BARCA: Okay. So then we are going to omit that particular portion of the code amendment changes from our motion in voting?

RUPLEY: Yes.

WRISTON: Well, that's up to -- I thought we were -- you want to just omit it?

BARCA: Well, that's what it seems like. It seems like that's where we're heading with it so.

WRISTON: I thought we were going to go forward with schools.

LEE: I thought we were going to go forward as currently recommended but with a recommendation that we --

WRISTON: Look at the size.

LEE: -- research it for potential additional uses and some further work on the sizing height of signs.

WRISTON: Yeah. That's up to whoever makes the motion but I mean that's --

VARTANIAN: Perfectly honest I think I'd just as soon leave it out of what we're voting on tonight.

WRISTON: Well, I think we need to make a recommendation one way I mean --

VARTANIAN: I make a **motion** we delete this item from tonight's voting.

WRISTON: Just take it out?

BARCA: Just take it out.

VARTANIAN: Just leave it for some subsequent consideration.

WRISTON: Okay. Is there a second?

BARCA: **Second.**



WRISTON: Any further discussion on it?

ALLEN: What would this do to the school that is trying to get this through? Are they trying to get the sign now or --

RUPLEY: Are they going to get fined \$200 a day.

LEE: They are waiting to install the sign I believe until such time as the code amendment hopefully goes forward from their perspective.

WRISTON: How big is their sign, Pat?

LEE: It's just under 25 feet.

WRISTON: Square feet?

LEE: Yeah.

WRISTON: Okay. I heard you say 20, I didn't know whether you were talking square, okay.

DELEISSEGUES: I don't have any objection to your suggestion of keeping it in there and taking a look at adding to it later.

MOSS: I think that's a better approach also.

ALLEN: Yeah. Or leave it as proposed at 25-square feet and just go with that instead of the --

BARCA: Well, we've got a motion on the table now.

WRISTON: There's a motion on the table so that's -- let's go ahead and do roll call. The motion has been seconded so let's go ahead and do roll call and it will -- it sounds like it's going to fail and that's --

RUPLEY: If they withdraw?

MOSS: Unless somebody wants to withdraw.

WRISTON: Unless someone wants to withdraw. I mean you could --

VARTANIAN: Well, yeah, it sounds like the consensus is going -- go ahead.

WRISTON: Sorry.

HOLLEY: I'm going to quit for a minute.

RUPLEY: That's a good idea.

BARCA: Let's all quit.

HOLLEY: You got to talk one at a time, I can't take everybody at once.

VARTANIAN: So how's the family.

WRISTON: Okay. Are you ready? Are you ready? Okay. Let's -- does someone want to withdraw the motion?

VARTANIAN: Yeah, I'll withdraw it. And given what appears to be the consensus I'll withdraw the motion, but I have concern that this particular ordinance may supersede zoning requirements or zoning dictates as far as signage is committed.

WRISTON: Okay. Is there another motion to send it through that or we can --

DELEISSEGUES: I'd suggest that we make a motion to include all of it as comments considered that were put forth by Mr. Wriston.

WRISTON: Okay. And is that just on that or on the whole --

DELEISSEGUES: On the whole thing.

WRISTON: The whole thing. Okay. Is there a second? Dick's put forward a motion to approve the whole thing so.

BARCA: Second.

WRISTON: Comments? Okay. Discussion?

RUPLEY: AYE

MOSS: Are we talking?

WRISTON: Everything except the --

VARTANIAN: I think we're getting punchy here.

WRISTON: Everything except I think the PUD part, I think we still need to talk about that after a bit. Is there further discussion? Roll call.

**ROLL CALL VOTE**

MOSS: AYE  
BARCA: AYE  
ALLEN: AYE  
RUPLEY: AYE  
VARTANIAN: AYE  
DELEISSEGUES: AYE  
WRISTON: AYE

WRISTON: Okay. Motion carries and goes forward. On the Planned Unit Development issue.

MOSS: I'll make a motion on that. On that Planned Unit Development issue which is item, I'm sorry, I've lost it.

WRISTON: 11, Page 15 and 16.

MOSS: 11. My **MOTION** is that we send this -- that we not forward this to the Board of County Commissioners with a recommendation for approval but instead send it back to staff for further work and to have them take another look at this proposed language and also extend that further look to the similar language in the subdivision code.

VARTANIAN: **Second.**

DELEISSEGUES: I'd just add a footnote that I don't think it's inconsistent with the previous motion because Jeff captured that thought so I don't have any objection to that, you know, as far as contradicting the first vote we took.

WRISTON: Let's go ahead and do it because it will carve it out, but that's fine, I mean it sends the message so. If there's no further discussion, then roll call.

**ROLL CALL VOTE**

MOSS: AYE  
BARCA: AYE  
ALLEN: AYE  
RUPLEY: AYE  
DELEISSEGUES: AYE  
VARTANIAN: AYE  
WRISTON: AYE

WRISTON: All right. That's the end of the hearing for that portion anyway.

MOSS: I'd like to thank our loyal audience --

DELEISSEGUES: Thank you.

MOSS: -- for sticking with us to the end, Meridee.

VARTANIAN: As painful as it was.

MOSS: Thanks for coming. Good night.

(End of Public Hearing Items)

### **OLD BUSINESS**

WRISTON: Is there any old business?

MOSS: Just again, Pat, would you check on the minutes from the habitat ordinance hearing, I don't believe I've received those, maybe other Planning Commission members have.

LEE: We were trying to make certain we were on the -- Sonja and I were talking at the earlier break and was it minutes of the Planning Commission hearing?

MOSS: Yes.

LEE: Minutes of the Planning Commission hearing that was last October or something like that?

MOSS: Yeah. Have we ever received those? Was it that long ago? Was it October? I was thinking it was later than that.

WISER: I can look through the minutes and check, but if you don't get them sooner you get them later, they're in every packet, but I could check.

MOSS: I may be just missing a packet.

WRISTON: It sounds like if you could disseminate a set, Sonja, if you can find them --

WISER: Yeah, I'll send them out.

### **A. Election of Chair & Vice Chair**

WRISTON: -- disseminate a set to George, to Milada. Okay. We have the issue of election of Chair and Vice Chair which we haven't had in --

VARTANIAN: 100 years.

WRISTON: -- ten years at least. I think we need nominations and elections so go from there.

BARCA: We've never done this before.

WRISTON: No, it's just a nomination.

MOSS: It's historic.

WRISTON: Yeah, historic moment. It's been a while. We used to do it -- I mean I'll give you some -- we did used to do it -- for the first couple of years I was on we used to do it every year and then it just we didn't, we really haven't done it for about probably about ten years so, but we used to do it every year.

VARTANIAN: I **nominate** Jeff Wriston --

MOSS: **Second.**

VARTANIAN: -- for our Chair.

WRISTON: Is there a nomination for Vice Chair?

ALLEN: I **nominate** Ron Barca.

VARTANIAN: **Second.**

MOSS: I'll nominate Dick Deleissegues.

BARCA: For?

VARTANIAN: Now you're complicating the issue.

WRISTON: Vice Chair. No, and that's --

VARTANIAN: Maybe Treasurer.

MOSS: We got to have an election.

BARCA: Yeah, Lonnie, who are you nominating, Dick for Chair?

MOSS: For **Vice Chair.**

BARCA: For Vice Chair. Oh, I wanted to nominate Dick for Chair.

MOSS: Good, that makes it a real election.

BARCA: You realize there's the potential that Dick could win both positions.

VARTANIAN: That's right.

DELEISSEGUES: More likely lose both positions.

VARTANIAN: So much for the process.

MOSS: But if he's absent --

BARCA: We can go home.

MOSS: -- so be it.

WRISTON: Okay. Let's take -- do we have two? You got the nomination then, Ron?

BARCA: I did.

VARTANIAN: Are any of the nominees declining the potential position?

MOSS: Do any of the nominees want to offer a little stump speech?

WRISTON: All right. Let's take Chair, Chair first.

BARCA: Elect me and see what happens.

WRISTON: Let's take Chair.

DELEISSEGUES: You want to do a secret ballot?

WRISTON: I don't --

WISER: Just raise, for aye just raise your hand and then for nay and the same with Vice Chair.

RUPLEY: So do the nominees have to put their head down and hide their eyes?

WRISTON: I mean the nominees actually vote too I think.

DELEISSEGUES: I think it ought to be by secret ballot.

VARTANIAN: Just one point for my -- one question if I might. I take it the Chair basically doesn't have any more weight or less weight than anybody else, it's just a matter of administering the meetings?

WRISTON: No, you actually -- yeah, that's true actually but then --

WISER: And he breaks the tie vote. He could.

VARTANIAN: Well, okay, but I mean he could vote any time. Well, he votes like everybody else, doesn't he?

ALLEN: He could break a tie.

DELEISSEGUES: Yes.

MOSS: But last.

WRISTON: He breaks a tie vote, I don't ever remember us breaking a tie vote.

BARCA: Well, if it's three and three and then you're the last vote.

VARTANIAN: But that could be not the Chair.

WRISTON: There's a --

RUPLEY: And he has to talk less than the rest of us.

WRISTON: That's true.

VARTANIAN: So I'll never be the Chair.

RUPLEY: We were actually going to nominate you.

WRISTON: There is people -- it sounds like people feel more comfortable doing it by so just, by secret --

RUPLEY: I think if there's a suggestion for secret ballot that goes so.

DELEISSEGUES: Yes, I thought so too.

WRISTON: Here, just for Chair just pass that, we'll just do it by these. Oh, here you just got to sign these --

DELEISSEGUES: Are these numbered?

VARTANIAN: She's got ballots.

DELEISSEGUES: We may want to audit the vote, we ought to number these ballots, could stuff the ballot box.

MOSS: Should we vote?

WRISTON: I'm sure the audience is on the edge of their seat.

WISER: Do you want to vote for Chair and for Vice Chair on there?

WRISTON: What's that, you want to do both?

WISER: You want to do both?

WRISTON: No, let's do Chair first because it could affect Vice Chair. Let's do Chair first.

(Pause in proceedings – Sonja Wiser & Pat Lee counted secret ballots for Chair)

WISER: And the winner is.

LEE: Jeff Wriston is elected Chair.

WRISTON: Oh, boy. Thanks. Thanks. All right. Vice Chair.

(Pause in proceedings – Sonja Wiser & Pat Lee counted secret ballots for Vice Chair)

WISER: And the winner is.

LEE: Dick Deleissegues Vice Chair.

WRISTON: There we go.

VARTANIAN: Congratulations.

DELEISSEGUES: What a team. What a team.

## **NEW BUSINESS**

WRISTON: Momentous moment. A couple more things. We've got the issue of this lawsuit, Rich was going to just try to stick around for some questions. We can talk about it, he wasn't worried about it, but it was just something that -- we'll -- I'm just going to ask is this something that you



guys would like to bring up in a work session, and it doesn't necessarily have to be separate, but I don't think there's any immediate concern, but we'll have him come to a work session or something and be able to ask questions and talk about it.

RUPLEY: Can we do that next week?

WISER: Well, is a work session an appropriate place because it's a public meeting?

WRISTON: Well, I asked and actually you can ask Rich again, I asked Rich whether we've never done it, but, you know, a lawsuit is appropriate for an executive session and I think we could do an executive session where it wouldn't be public but that's up to -- I think that's Rich's call. I'm not sure any of us really -- I mean we're named as defendants which is somewhat odd but it's up to Rich. If you guys can --

WISER: When is your preference, the next work session or --

WRISTON: The next work session or a -- and we can pull off into executive session off of that if he wants for ten minutes. Or, Pat, are you -- are we too booked on that work session?

RUPLEY: Ron doesn't care.

WISER: The next work session is May 18th, we don't have anything in April.

LEE: There's no work session next week, is there?

RUPLEY: Can we do a new one for like 20 minutes before --

WRISTON: Do you want to do a special work session before the hearing?

RUPLEY: Can we do an executive session before the hearing?

LEE: I would have to ask Rich about executive session issue, I'm not sure.

WRISTON: Why don't we plan for that. The hearing's -- we have no work session so the hearing's at 6:30?

LEE: Yes.

RUPLEY: At City Hall?

BARCA: City Hall.

WRISTON: City Hall.

WISER: April 20th on timberlands and open space and annual reviews on April 20th.

WRISTON: Okay. What I'd suggest is if Rich doesn't have an objection to just an executive session if it's appropriate then maybe we could meet at 6:00 somewhere at City Hall or something, in the lunch room or whatever.

LEE: Okay. Next week it is it's --

RUPLEY: It's the Gorge.

LEE: -- Columbia River Gorge. And it's the business park ML issues on that --

WISER: Next Thursday, March 23rd, is the Gorge ordinance and BP/ML at City Hall that begins at 6:30. I think you can get into City Hall at 6:00.

WRISTON: So we can either close those doors or we can in that lunch room and close the doors. So if you can talk to Rich and then that works just send us an E-mail. Then the only other thing I have and then if anyone else has anything we used to get minutes of the Commissioners' meetings or the memoranda the, you know, the --

LEE: The memorialization.

WRISTON: -- the memorialization of the Commissioners' meetings for these issues and work sessions and all.

LEE: I can pass on that message and try and get you those.

WRISTON: If we could start getting those again I think that would help. It certainly helped, the ones I read on urban holding helps me see where they're coming from anyway. It's interesting so. Absolutely different from where we came from. All right. We're adjourned. Thank you.

## **ADJOURNMENT**

The hearing adjourned at 10:30 p.m. All proceedings of tonight's hearing are filed in Clark County Community Development/Long Range Planning. The minutes can also be viewed on the Clark County Web Page at

<http://www.clark.wa.gov/longrangeplan/commission/06-meetings.html>

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Jeff Wriston, Chair

*Minutes Transcribed by:*

*Cindy Holley, Court Reporter*

*Sonja Wiser, Administrative Assistant*

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Date

